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Central Administrative Tribunal, Principal Bench

Original Application No. 1407 of 1997

New Delhi, this the 23rd day of May, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Parkash Chand, Sub-Inspector (Exe) No.D-1874,
8th Bn. D.A.P. PTS. Malviya Nagar, New Delhi. - Applicant

(By Advocate Ms. Jasvinder Kaur)

Versus

The Commissioner of Police, Police
Headquarters, M.S.O. Building, I.P. Estate,
New Delhi. - Respondent

(By Advocate Shri Anil K. Chopra through
proxy counsel Shri R.K. Singh)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

By the present OA the applicant claims admission to promotion list-F (Executive) with effect from the date on which his juniors were promoted.

2. Short fact giving rise to the aforesaid claim are as under:-

The applicant joined Delhi Police as Constable on 9th September, 1969. He was promoted as Head Constable (Clerical) on 7th September, 1974. He was further promoted as temporary Sub Inspector (Exe.) on 18th October, 1982. He was confirmed as Sub Inspector with effect from 1st October, 1985. In the month of July/August, 1994 the applicant along with others was considered for admission to promotion list-F (Exe) - executive cadre of Delhi Police. When the DPC met for considering the applicant and others for admission into promotion list-F (Exe.) the applicant was facing a departmental enquiry. In view of this, findings of the DPC regarding his suitability were kept in a sealed cover. In the disciplinary proceedings the disciplinary



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authority vide order dated 29th March, 1995 awarded a major penalty upon the applicant. In an appeal carried by the applicant, the appellate authority vide order dated 19th July, 1995 modified the major penalty into one of censure. In view of the penalty of censure imposed by the appellate authority claim of the applicant for promotion was once again considered by opening the sealed cover. On the opening of the sealed cover, the applicant was found to have been graded as 'unfit'. However, by communication dated 4th October, 1995 the applicant was informed that the findings of the DPC are not being acted upon due to imposition of punishment of censure in the departmental enquiry. However, when the applicant made a detailed representation he was informed by communication dated 3rd June, 1996 that on opening of the sealed cover he has been found graded as 'unfit'.

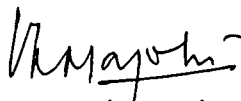
3. The sum and substance of the afore-stated facts is that the claim of the applicant for promotion was duly considered by the DPC in July-August, 1994. Since disciplinary proceedings were pending against him, his result was kept in a sealed cover. The applicant was initially awarded a major penalty by the disciplinary authority. The said penalty was reduced by the appellate authority to one of censure. After the passing of the aforesaid order by the appellate authority the sealed cover was opened and the applicant was found to have been graded as unfit. It is true that at an interlocutory stage though the applicant was found to have been graded as 'unfit' he was communicated by earlier communication of 4th October, 1995 that the findings are not being acted upon due to imposition of

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punishment of censure in the departmental enquiry. The same have, thereafter, been clarified by a subsequent communication dated 3rd June, 1996 where the applicant has been informed that he has been found by the DPC as having been graded as unfit. The aforesaid promotion was based on selection. Hence the moment it is found that the DPC has found applicant as unfit, no direction can be issued directing the respondents to promote him with effect from the date his juniors were promoted specially as the promotion was based on selection. Present OA in the circumstances, we find is devoid of merit and same is accordingly dismissed. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

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