

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1681/97

New Delhi this the 25th day of May 2000

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

Shri Jagbir Singh,
Constable Dvr (No. 9191/DAP)
C/O HACP/VIII Bn DAP.

..Applicant

(By Advocate: Ms. Rachna Tiwari proxy for
Ms. Jasvinder Kaur)

Versus

1. Commissioner of Police,
Police Headquarters, ITO, New Delhi.

2. The Deputy Commissioner of Police
Police Headquarters (I),
I.P. Estate, New Delhi.

..Respondents

(By Advocate: Mrs. Neelam Singh)

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicant was enlisted in Delhi Police on 1.11.1972 as Constable (Exe). He was absorbed in M.T. Cadre w.e.f. 28.12.1973. He was confirmed as Constable on 1.6.1976. He was awarded punishment of forfeiture of his four years approved service permanently w.e.f. 3.8.1984 and earlier he was awarded two censures on 21.4.75 and 23.6.83. After a regular D.E. was held against him he filed OA No. 1095/86 vide order dated 28.9.90. This Tribunal quashed and set aside the dismissal order of Disciplinary Authority and the applicant was reinstated with consequential benefits. The applicant has averred that during the pendency of the disciplinary enquiry against him his juniors were promoted as Head Constable (Driver)/ASI in the

year 1986/1990. He made a representation on 4.2.91 seeking consideration for promotion at par with his juniors. He has alleged that no action was taken on the representation. His grievance is that though ^{he} had spent 24 years of service in the post of Constable he has stagnated on the same post. As per the Delhi Police (Promotion & Confirmation) Rules, he had become eligible for promotion to the post of Head Constable(Tech) after completion of 5 years service as Constable and for further promotion to the post of ASI ^{f. b.} another 5 years in the grade of Head Constable was required. He had alleged that he has never ^{been} considered for promotion. He has sought quashing of the impugned order dated 20.6.97 (Annexure-A) whereby his request for promotion was not acceded to. He has also sought directions to the respondents to promote him to the post of ASI(Driver) w.e.f. 30.3.90, the date on which persons junior to him were promoted as per order annexed at Annexure-E.

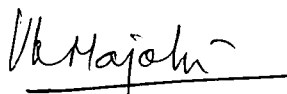
2. In their counter the respondents have stated that the applicant was not recruited as Constable (Driver). He was enlisted on 1.11.72 as Constable (Exe) and later on absorbed ^{in M.T. Cadre} w.e.f. 28.12.1973. After reinstatement, applicant submitted an application dated 4.2.91 for promotion. His request was considered. His immediate juniors as well as batchmates were earlier considered for promotion to Grade-II i.e. HC/Driver w.e.f. 1.1.84 in accordance with the judgment of the Hon'ble Supreme Court dated 3.8.88 in Writ Petition No. 1432/87 Maharaj Singh Vs.

Union of India. They were tested by a Trade Test Board/Oral Test for making ^{them} ~~the~~ eligible for interview. According to the judgment of the Hon'ble Supreme Court, the Delhi Police drivers are to be given the benefit of promotion on the pattern of Railway Protection Force (RPF), Rules. Accordingly the promotion tests for drivers of Delhi Police were taken on the basis of the guidelines for DPC received from Northern Railway Headquarters vide their letter dated 30.9.88. As per the guidelines, the Trade Test constitutes Practical Test, Oral Test, Record of Service and Personality Test. These ^{tests} ~~tests~~ are allocated 40 Marks, 20 Marks, 20 Marks and 20 Marks respectively. Qualifying marks for candidates belonging to General category are 60% for promotion to Grade II (HC/Drivers). Respondents have maintained that the applicant was allowed to appear in the Trade/Oral Test i.e. in 1992 and 1995 respectively. However, as he could not secured the qualifying marks, he could not be promoted to the higher rank of Head Constable. Respondents have, ^{also} ~~however~~, contended that the applicant did not undergo the basic training for drivers from the date of his joining M.T. Cadre and has recently completed the training only on 17.1.96. ~~ent~~

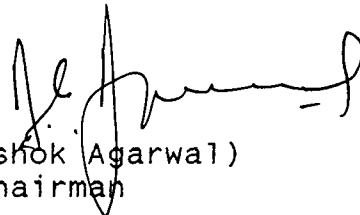
3. We have heard the learned counsel for both the parties and perused the material available on file as well as the record produced at the time of hearing by the Respondents. In connection with the Trade Test, held during the year 1992 and 1995,

we find that the applicant had appeared in both the Trade Test, but ^{as} he could not attain the qualifying marks prescribed for promotion to Grade-II HC/Drivers, ^{R -} he could not be promoted. This is a settled law that no Government servant has a right to be promoted to the higher rank but has right to be considered for promotion. We find that the applicant had been allowed to exercise his right of consideration for promotion. As he was not selected for promotion on merit, he could not have any genuine cause of grievance.

4. Having regard to the above reasons and discussions, the OA is dismissed as devoid of merit. No costs.



(V.K. Majotra)
Member (A)



(Ashok Agarwal)
Chairman

cc.