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Central Administrative Tribunal
Principal Bench: New Delhi

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OA No.414/97

New Delhi, this the 7th day of November, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri N. Sahu, Member (A)

Braham Prakash
Constable No. 1018/W,
(Now 730/L), Prov. & Line,
Delhi Police, Old Police Line,
Delhi.

...Petitioner

(By Advocate: Shri Shankar Raju)

Vs.

Union of India through

1. Lt. Governor of Delhi through
Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi.
 2. D.C.P./G.Q.-I,
Police Headquarters,
I.P. Estate, New Delhi.
 3. Addl. Dy. Commissioner of Police,
West District,
New Delhi.
-Respondents

(By Advocate: Shri Arun Bhardwaj)

O R D E R (ORAL)

Dr. Jose P. Verghese, Vice-Chairman -

The only short question that is involved in this case is whether respondents can withdraw the benefit already given to the petitioner prior to initiation of an enquiry and order passed in the disciplinary proceedings.

2. It is stated that the petitioner's name was already placed on promotion list-A w.e.f. 15.2.1990 after qualifying the required competitive test and thereafter he was deputed for Lower School Course in his turn.

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3. Subsequently, the petitioner has been found copying during the examination held in September, 1990. Respondents held the disciplinary proceedings and passed appropriate punishment order on 20.11.1992 and declared that the petitioner is disqualified in the said test held during the training. Thereafter by an order dated 12.3.1996 proceeded to cancel the promotion, given to the petitioner, by deleting his name from the promotion list-'A'. The punishment order passed on 20.11.1992 indicated that the penalty of forfeiture of one year approved service ^{was} ~~the~~ to be inflicted upon the petitioner.

4. The only question now to be considered as pressed is whether this punishment order dated 20.11.1992 passed in the disciplinary proceedings initiated on 11.10.1991, can have an effect on the promotion already given to the petitioner w.e.f. 15.2.1990 or not? The respondents are in their powers to implement the orders passed in the disciplinary proceedings in an appropriate manner but we are afraid that the same may not be applicable retrospectively to the petitioner since the petitioner has already earned this promotion, when his name was brought to the promotion list 'A' w.e.f. 15.2.1990 after passing appropriate test required for inclusion of his name to the promotion list 'A'. The said benefit which stood accrued to the petitioner cannot be taken away from him on the basis of a subsequent misconduct. In the circumstances the order of cancellation of his promotion and deleting his name from the promotion list 'A' is set aside by granting liberty to the respondents to implement

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the orders of penalty passed in the disciplinary proceedings in an appropriate manner, in accordance with law.

With this OA is disposed of with no order as to costs.

Narasimhan
(N.Sahu)
Member (A)

J
(Dr. Jose P. Verghese)
Vice-Chairman (J)