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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.732 of 1997

New Delhi, this the 11th day of August, 1997.

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

Krishan Kumar  
(D/1513)

S/o Sh. Dungar Ram Sharma  
R/o D-87, Pushpanjali Enclave,  
Pitampura, Delhi

...Applicant

(By Advocate : Shri Shyam Babu)

Versus

1. Govt. of NCT Delhi  
through its  
Chief Secretary  
5, Sham Nath Marg,  
Delhi

2. Sr. Addl. Commissioner of Police(Admn)  
Police Headquarter  
I.P. Estate  
New Delhi

...Respondents

(By Advocate : Shri Rajinder Pandita)

ORDER (Oral)

Hon'ble Dr. Jose P. Verghese, Vice Chairman(J) -

The petitioner in this case was promoted by an order dated 12/08/1992 to the post of Inspector.

2. The contention of the learned counsel for the applicant is that the said promotion order issued by the Commissioner of Police can only be under Rule 19(ii) of Delhi Police (Promotion & Confirmation) Rules 1980. According to him the said promotion is made under the 5% quota reserved and such promotions to be granted at the instance of the Commissioner of Police were to encourage sportsmen and marksmen and officers who have shown exceptional gallantry and devotion to the duty. It was also stated that such

promotion shall be treated as adhoc and will be regularised when these persons have successfully completed the training course prescribed, like Lower School Course, if any. The provision for training is applicable to wherever there is training course prescribed for the purpose of regularisation. It is stated that the applicant is not belonging to a lower subordinate where training course is prescribed for that rank only and, therefore, this condition of completion of training for the purpose of regularisation is not applicable to the case of the applicant who is not a lower subordinate and as such adhoc appointment would have been regularised in due course after successful completion of two years of probation. It was also stated by the learned counsel for the applicant that the rules, proceeds to prescribe the question of seniority of such promotees, and for all purposes such persons under these rules shall be placed at the bottom of the promotion list drawn up for that year. Rule 19(ii) is reproduced herein below:

"Ad-hoc promotions - (ii) To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may, with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Such promotions shall not exceed 5 per cent of the vacancies likely to

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fall vacant in the given year in the rank. Such promotions shall be treated as ad-hoc and will be regularised when the persons so promoted have successfully completed the training course prescribed like (Lower School Course), if any. For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year."

It was also contended that under these rules the respondents have wrongly treated him as adhoc and the respondents have issued a show cause notice, a notice intended for the purpose of reverting him from the rank of Inspector to that of Sub Inspector(Executive) on an allegation which is a subject matter of a pending enquiry. The applicant has now filed this OA against this proposed notice stating that a reversion order that may follow from this show cause notice would be illegal and as such the same may be quashed. Since the ground on which the show cause notice is identical as that of the disciplinary proceedings and the respondents are proceeding with the said disciplinary proceedings. During the pendency of the said proceedings the respondents could not have given a show cause notice to revert the petitioner from the substantive post he is holding, namely, that of the Inspector in Delhi Police.

3. We find considerable force in the submissions of the applicant and the applicant has cited a decision of the Supreme Court in Risal Singh Vs. State of Haryana - JT 1994(2) SC 157 wherein Supreme Court was interpreting a similar case under Punjab Police Rules, namely, Rule 138(2). We find that the cited case is quite appropriate and respondents cannot revert him on that ground even if there is an allegation of misconduct. The respondents are at liberty to proceed with the enquiry in accordance with law and pass appropriate orders on the conclusion of the enquiry and the applicant will have a remedy in accordance with law, against any adverse orders that would be passed therein.

4. By way of preliminary objection, the respondents have stated that this court has no jurisdiction to interfere, in any case, at the stage of show cause notice but we find that this is not a show cause notice of a general nature. This is a show cause notice for reversion during the pendency of a disciplinary proceeding. We have interfered in this matter since it is fully covered by a decision of Supreme Court and also because it is contrary to express provision of law, and the respondents have the liberty to pass appropriate orders after the enquiry. The reason why we have interfered at the stage of show cause notice is, the apprehension of the applicant that a punishment is being given for the same

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misconduct alleged and being enquired into, before the completion of the disciplinary proceedings.

5. In the circumstances, this OA is allowed to the extent stated above. No order as to costs.

*N. Sahu*  
(N. Sahu)  
Member (A)

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

/Kant/