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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.2082/94

New Delhi, this the 13th December, 1994

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member(A)

Const. Ramjas, No.143/P.T.S.
S/o Shri A.C. Yadav,
Aged about 31 years,
R/o Gr.No.6,
Police Training School,
Jharoda Kalan, Delhi
and working as
Constable in Delhi Police,
posted as P.T.S. Jharoda Kalan,
Delhi.

... Applicant

By Advocate: Shri S.S. Tewari

Vs.

1. Lt. Governor of N.C.T. of Delhi,
through Chief Secretary,
Govt. of N.C.T. of Delhi,
Old Secretariat, Delhi.
 2. The Dy. Commissioner of Police (Hq.1),
M.S.C. Building, I.P. Estate,
New Delhi.
 3. The Principal, Police Training School,
Jharoda Kalan, Delhi.
- ... Respondents

O R D E R (ORAL)

While working as Constable in Delhi Police the applicant was selected on the basis of examination for sending to Lower School Training course and his name was brought on List 'A' prepared under Rule 12 of the Delhi Police (Promotion and Confirmation) Rules, 1980. The applicant was also notified regarding the empanelment in List 'A' and a copy of the same has been filed as Annexure 'A' to the application.

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2. The grievance of the applicant is that he is not being sent to Lower School Course inspite of having been empanelled in List 'A' in the year 1992. After making representation, he has filed this O.A. in October, 1994 in which he has prayed that the portion of the impugned order by which the applicant has not been deputed to undergo training in Lower School Course be quashed with a direction to the respondents to send the applicant for Lower School Course Training with all consequential benefits available to other persons of 1992 batch of List 'A'.

3. We heard the learned counsel for the applicant on earlier sittings also.

4. The learned counsel for the applicant fervently argued interpreting the provisions of Rule 5 (iii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 hereinafter called 'Rules'. The provisions of Rule 5 (iii) are quoted below:-

"No member, of a subordinate rank who is under suspension or facing departmental enquiry. Criminal proceedings shall be eligible for admission for training in departmental Courses. Such cases shall be decided on merit by the departmental promotion committee after such proceedings are over. A departmental enquiry shall be deemed to have been initiated after the summary of allegations has been served."

The contention of the learned counsel is that when his name was brought on List 'A' in 1992 he was not facing any departmental enquiry, suspension or a criminal proceedings and as such his case is not covered under the provisions quoted above. However, a careful and meaningful ^{understanding} ~~right~~ of the words used

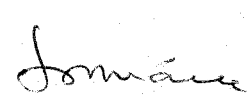
in clause (iii) above goes to show that no person shall be eligible for admission for training in departmental courses if they have suffered a setback because of any action against them as mentioned in the aforesaid clause. The case of the applicant however is that he has been punished by an order dated 2.5.94 in a departmental enquiry initiated against him under section 21 of the Delhi Police Act, 1978 and in that departmental enquiry considering that the default committed by the applicant which was proved against him happened to be the first, a lenient view was taken and the pay of the applicant was reduced from the stage of Rs.1110/- to Rs.1070/- for a period of 2 years w.e.f. the date of issue of the order dated 2.5.94. The reduction will also have the effect of postponing his future increments of pay. The period of unauthorised absence from duty from 1.7.92 to 8.10.92, 9.10.92 to 5.2.93 and from 6.2.93 to 26.8.93 is treated as the period 'not spent on duty'. This punishment order therefore by itself is an indication to the effect that the enlistment in List 'A' shall be governed by a subsequent consideration of the applicant by a Review DPC as in the meantime before his turn came for being sent to training course he has been punished by major penalty whereby his 2 years of service as well as certain period has been discounted from his continuous service. The contention of the learned counsel for the applicant is that he has already been enlisted before this punishment was passed in this stage cannot be, to our mind, make him eligible for being sent to training course. The learned counsel for the applicant however placed reliance on the authority of Praveen Kumar reported in 1988 ATC 496. In that case Chandigarh, CAT Bench decided a case of the person who was given

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minor penalty and the DPC omitted to consider the same and so Review DPC was ordered. Here the case is totally different with respect to the facts in issue as well as the legal principles to be applied. The learned counsel for the applicant has also fervently referred to the case of UOI V. K.V. Jankiraman reported in 1991(2) SCALE S.C.423. The facts of that case are also not applicable inasmuch as at the time when the applicant was placed in List 'A', he was not facing any departmental enquiry nor there was any punishment standing against him. The event of his subsequent punishment by the order dated 2.5.94 has in his way and a similar case was considered by the Hon'ble Supreme Court in the case of UOI Vs. Kewal Kumar reported in JT 1993(2) S.C. 705. The Hon'ble Supreme Court in that case considered the O.M. of DOP&T of 1988 wherein it is laid down that on the date of promotion also a person should also be cleared both from the vigilance angle as well as from order of penalty.

5. In view of the above facts, we do not find any prima facie case for admission and we dismiss this application under section 19⁽³⁾ of the A.T. Act, 1985 at the admission stage.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)

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