

Central Administrative Tribunal
Principal Bench
New Delhi

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O.A.No. 1111/94

New Delhi, this the 28th day of July, 1999

Hon'ble Shri S. R. Adige, Vice-Chairman (A)
Hon'ble Shri P.C. Kannan, Member (J)

Sub-Inspector Daya Nand, No. D-1102 (Executive),
F.R.R.O., I.G.I. Airport, Shift-B,
Delhi Police through
Mrs. Avnish Ahlawat, Advocate,
243, Lawyers' Chambers, Delhi High Court,
New Delhi.Applicant

(By advocate: Mrs. Avnish Ahlawat)

Versus

1. Government of National Capital Territory of Delhi,
through Commissioner of Police, Delhi,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
2. Deputy Commissioner of Police/HQ(I),
Delhi Police, Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi. ...Respondents

(By Advocate: Sh. Jog Singh through proxy Sh. Surat Singh)

O R D E R (ORAL)

By Hon'ble Shri S.R. ADIGE, VICE-CHAIRMAN (A):

Applicant seeks confirmation w.e.f. 18/19-9-1985,
the date from which his junior in the general category,
Sh. N.S. Chauhan was confirmed, along with consequential
benefits including seniority/promotion etc.

2. In the O.A. Rule 22 of Delhi Police (Appointment
& Recruitment) Rules, 1980 which determines seniority of
Sub-Inspectors in Delhi Police from the date of their
confirmation has also been challenged.

3. We have heard Smt. Avnish Ahlawat, counsel for
applicant and Sh. Surat Singh proxy for Sh. Jog Singh,
counsel for respondents.

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4. As this is a 1994 case and is listed at serial no. 9 of the regular hearing list today, we are proceeding to dispose it of after hearing the learned counsel on either side and perusing the material on record.

5. Respondents in their reply admit that a permanent post for confirmation of the applicant was made available w.e.f. 18.9.1985, but state that as ^{applicant} ~~he~~ was censured on 13.11.1985 for the defaults committed on 14.6.1985, 26.6.1985 and 9.7.1985, and was again censured on 15.1.1986 for the default committed on 16.8.1985, they did not confirm him w.e.f. 18.9.1985 and instead deferred his confirmation for six months and eventually confirmed him in the rank of Sub-Inspector (Executive w.e.f. 18.3.1986).

6. As these orders of censure were passed as per respondents own reply, after the date on which the permanent post became available for confirmation of the applicant, i.e. 18/19.9.1985, they should ^{not} have been taken into account by the respondents ~~in~~ considering applicant's case for confirmation. In such cases, it is the date of punishment, that would be relevant and not the date on which the defaults are said to have been committed.

7. Mrs. Avnish Ahlawat, counsel for applicant has relied upon the judgements cited in JT 1988(3) 131 and 1989(1) SLJ 247, on the question as to whether orders of censure can delay confirmation, but even without referring to those judgements, it is clear that the censure orders in the present case, which were passed after the date on which a permanent post became available for confirmation for the applicant, would not act as a bar to applicant's confirmation from that date.

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8. Without considering it necessary to go into the vires of Rule 22 of Delhi Police (Appointment & Recruitment) Rules, 1980, which has also been challenged, we allow this O.A. and direct respondents to confirm the applicant .e.f. 18/19.9.1985, and thereafter consider his case for further promotions, in accordance with rules and instructions on the subject.

9. These directions should be implemented as early as possible and preferably within three months from the date of receipt of a copy of this order.

P. C. Kannan
(P.C.KANNAN)
Member (J)

S. R. Adige
(S.R.ADIGE)
Vice-Chairman (A)

ANA/