

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A./TAXX No. 2578/1994

Decided on: 11.9.97

Shri Hari SinghApplicant(s)

(By Shri M.P. Raju Advocate)

Versus

NCI Delhi & AnotherRespondent(s)

(By Shri Arun Bhardwaj Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2578 of 1994

New Delhi this the 14th day of September, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Hari Singh
S/o Late Shri Jug Lal
R/o A/42, Ganesh Nagar,
Tilak Nagar,
New Delhi-18.

Applicant

By Advocate Shri M.P. Raju

Versus

1. NCT of Delhi
through its Chief Secretary,
Old Secretariat,
New Delhi.

2. Commissioner of Police,
Delhi Police,
Police Headquarters,
Indraprastha Estate,
New Delhi.

Respondents

By Advocate Shri Arun Bhardwaj

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

The applicant had earlier contested the rejection by the respondents of his representation for allowing him to cross the Efficiency Bar in the post of Inspector with effect from 1.12.1984 in O.A. No. 2624 of 1992. Taking note of the reply of the respondents in the aforesaid O.A. that the representation against certain adverse remarks was pending with the Delhi Administration, the aforesaid O.A. was disposed of with the direction to the respondents to constitute a review DPC for considering the case of the applicant afresh for crossing the Efficiency Bar in the post of Inspector

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w.e.f. 1.12.1984 in the light of the decision taken on his representation regarding adverse entries (emphasis added). It was provided that in case he was found fit, he would be allowed to cross the Efficiency Bar from the due date and given all consequential benefits including arrears. In pursuance of the aforesaid direction, the respondents constituted a review DPC and taking into account the final disposal of the representation against the adverse remarks, the review DPC came to the conclusion that there should be no change in the date of crossing of the Efficiency Bar which had already been allowed by the original DPC with effect from 4.4.1986 instead of from 1.12.1984. The applicant is aggrieved by this finding of the review DPC and has filed this application praying for the quashing of the aforesaid DPC proceedings and setting aside the order which allowed the applicant to cross the Efficiency Bar w.e.f. 4.4.1986 and not from the due date 1.12.1984.

2. The main grounds taken by the applicant are as follows:

(i) The applicant was not told the reasons why he was not allowed to cross the Efficiency Bar with effect from 1.12.1984.

(ii) That the respondents had not followed the time schedule prescribed under the rules for the review of his case.

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(a) His reputation for fair dealings with the public and accessibility of public, attitude towards subordinates and relations with fellow officers, general power of control, organising ability, personality and initiative, power of command is unsatisfactory.

(b) His work and conduct as a whole have been found to be not at all satisfactory during the period under report. He has also been formally warned for some lapse."

5. The Review DPC thus took into account the aforesaid adverse remarks and came to the conclusion that there should be no change in the date of crossing of Efficiency Bar as already allowed w.e.f. 4.4.1986 instead of 1.12.84 and the DPC recommended accordingly. In the light of this, the respondents hold that there had been no irregularity in the order passed. Subsequently, after his satisfactory performance during the subsequent year, he was allowed to cross the E.B. w.e.f. 4.4.1986 and immediately thereafter, he was promoted to the post of ACP on 27.5.1986.

6. I have heard the learned counsel for the parties and have seen the record.

7. The main point argued by the learned counsel for the applicant was that the applicant case should have been subjected to a review in regard to the crossing of the Efficiency Bar according to the schedule prescribed, i.e., annually and, therefore, his case should have been reviewed in 1985. Secondly, he urged that review DPC which considered the matter about for crossing the E.B. was a three-Member DPC whereas the

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DPC which considered his promotion in May, 1986 was a five-Member DPC and both had relied on the same material.

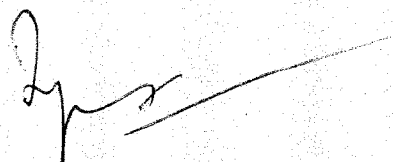
8. The essential point for consideration here is to the extent the order of the Tribunal has been complied with by the respondents in the review DPC. All that was directed was that the review DPC should take into account the result of the representation and then decide the fitness of the applicant to cross the Efficiency Bar. I find that this direction had been fully complied with and taking into account the result of the representation which ended in expunging of certain adverse remarks and retention of a few other adverse remarks given in the counter-reply as mentioned above, the review DPC had come to the conclusion that he was not fit to cross the Efficiency Bar earlier than 4.4.86 and the decision to cross the E.B. with effect from 4.4.1986 did not require any change.

9. Regarding the argument that his case was not considered as per the schedule as provided under the rules, it is seen that the DPC to review his case was constituted in 18.3.1986 and the DPC formally met on 4.4.1986 and taking into account the record upto that date, the DPC found him fit to cross the E.B. w.e.f. 4.4.1986 because of adverse remarks in the ACR of 1983-84. Although his case was considered only by the duly constituted DPC in March-April, 1986. His fitness for crossing the E.B. from the due date i.e., 12.12.1984 could not be allowed in view of the adverse remarks in the 1983-84 ACR which would be relevant for the purpose

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of deciding his fitness to cross the E.B. on the due date viz, 1.12.1984. The representation against the adverse remarks in the aforesaid CRs also resulted in some of the adverse remarks being retained finally. His crossing the E.B. w.e.f. 1.12.1984 cannot be considered without taking into account these adverse remarks of 1983-84. When this was challenged, the respondents had to consider this matter again only after the decision was taken on his representation which was rejected finally much later, i.e., on the basis of his representation dated 16.4.1991 and the respondents thereafter, complied with the directions of the Tribunal and passed the final order after review in the DPC on 18.8.94. From this sequence of events, it cannot be said that the respondents had acted in any arbitrary manner. The DPC which considered his promotion taking into account as it should, the subsequent ACRs and decided to promote him w.e.f. 27.5.86. The fact that DPC for review of his case was a three-Member DPC does not vitiate the decision in any manner as it was constituted for the special purpose according to rules.

10. In the light of the foregoing, I find there is no merit in the application and the same stands rejected. No costs.


(K. MUTHUKUMAR)
MEMBER (A)

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