CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.588/94
M.A. 119/97
M.A.No.2659/95.

New Delhi: dated this the 23rd day of April, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR.A.VEDAVALLI MEMBER(J).

Suresh K. Vachani,
S/o Shri Khub Chand Vachani,
R/o Quarter No.22, HC Old Type,
Police Station, Mandir Marg,
New Delhi - 110 001   .....Applicant.

(By Advocate: Shri V.S.R.Krishna).

Versus

The Commissioner of Police,
Police Headquarters,
Indraprastha Estate,
New Delhi.   ......Respondent.

(By Advocate: Shri Rajendra Pandita).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant seeks promotion as S.I.(Input/Output
Assistant) w.e.f. 1989 or 1990.

2.   Respondents have taken the initial objection
of limitation stating that the cause of action arose
in 1989 when a DPC to consider promotions was held
on 15.5.89. They state that applicant's representation
against the 15.5.89 DPC's recommendations was
rejected vide U.O. dated 4.7.89 and rejection of
his subsequent representation to L.G. Delhi was also
communicated to him vide U.O. dated 16.7.90.
However, we note that upon a further representation
dated 17.5.93 submitted by applicant through proper
channel (Annexure-A4) respondents themselves, vide

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endorsement dated 20.5.93 directed applicant to
trace out a certain decision of Govt. and by that
endorsement revived applicant's prayer. The present
O.A. has been filed within 7 months of that endorsement.

3.   In the May, 1989 DPC applicant's candidature
for the post of S.I (Input / Output Asstt) was
rejected because as per Recruitment Rules Key Punch
Operators∟with 12 years' regular service in the
^ like applicant
grade were eligible for promotion, and on examination
of applicant's ACRs for the 12 years preceeding 1989,
the DPC found him unfit owing to his chequored
record of service. We have also examined the
applicant's ACRs for the 12 years preceeding 1989
and find that in the light of remarks earned
by applicant during the earlier years there is nothing
to warrant a different view. Hence the prayer
for promotion as SI(Input/ Output Asstt.) w.e.f.
May, 1989 fails.

4.   That very DPC however recommended applicant
for the lower post of ASI(Data Entry Operator) for
which the eligibility qualification was 6 years
regular service in the grade of K.P.O, Applicant's
ACRs for the latter half of the 12 years proceeding
1989 being satisfactory, he was accordingly
promoted as ASI(DPO) w.e.f. May, 1989.

5.   On 12.11.90 a regular DPC was again convened
to consider eligible candidates for promotion as
S.I.(Input/Output Asstt.), but respondents state
that in that DPC the Chairman observed that DPC
could not be held for one person and atleast 3
candidates had to be considered. Since 3 eligible
candidates were not available, no decision was
taken by the DPC and applicant was informed accordingly

on 3.12.90.

6.   During course of hearing respondents
have not shown us any rule or instructions which
debars consideration by a DPC when there is only
1 eligible candidate and which lays down that
atleast 3 eligible candidates have to be available
for consideration by a DPC. Apart from respondents
themselves reviving applicant's claim by their
endorsement dated 20.5.93 referred to above, for
the reason noticed above, .this is a fit case where
any delay by applicant in filing this OA deserves
to be condoned, because merely because there is
only one candidate who is eligible, his enforceable
legal right to be considered for promotion cannot
be abridged or abrogated, in the absence of other
eligible candidates.

7.   In the result this OA is disposed of with
a direction to respondents to hold a review DPC
as on 12.11.90 and consider applicant's case for
promotion as S.I.(Input/Output Asstt.) along with
any other candidates who might have become eligible
on that date, in accordance with rules and
instructions on the subject, within 3 months from
the date of receipt of a copy of this judgment
under intimation to the applicant. No costs.

(DR.A.VEDAVALLI)   (S.R.ADIGE)
MEMBER(J).   MEMBER(A).

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