

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 824 of 1994

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New Delhi, dated this the 27th July, 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. P.C. KANNAN, MEMBER (J)

Shri V.K. Dabas,
S/o Shri Balbir Dabas,
B/O Vill. Kherpur, Khierabad,
Post Pilkhuwa,
Dist. Ghaziabad, U.P. ... Applicant

(By Advocate: Shri G.D. Gupta)

Versus

1. Union of India through
the Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Commissioner of Police,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
3. The Addl. Commissioner Police (AP),
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
4. The Dy. Commissioner of Police, HQ (I),
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002. ... Respondents

(By Advocate: Shri Bhaskar Bhardwaj proxy
counsel for Shri Arun Bhardwaj)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant prays for full implementation of the
Tribunal's order dated 17.5.89 in T-884/85 (CW No. 529/83)
with all consequential benefits including promotion to the
post of Head Constable from the date his batch mates or
his juniors were promoted, arrears of allowances etc.

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2. Applicant was enlisted as Temporary Constable in Delhi Police on 5.7.78. Consequent to allegations that he got himself recruited by filing false certificates, and also for alleged involvement in certain criminal cases his services were terminated w.e.f. 2.7.81 under Rule 5(1) CCS (Temporary Service) Rules, 1965. After exhausting the remedies available to him, and receiving no satisfaction, he filed CWP-529/83 which was transferred to the Tribunal for adjudication and renumbered as T.A. No. 884/85 and that case was disposed of by order dated 17.5.89, by which impugned order dated 2.7.81 was quashed and set aside and Respondents were directed to reinstate applicant with all consequential benefits.

3. Pursuant to the aforesaid order dated 17.5.89, applicant was reinstated in service vide Respondents' order dated 21.7.89 (Ann. A-3), and applicant's counsel Shri Gupta states that applicant reported for duty on 11.9.89.

4. The aforesaid order dated 21.7.89 states that applicant would draw his full pay and allowance admissible to him under the rules for the period from the date of his termination till 21.7.89 subject to the production of a declaration under FR-54 and the intervening period would be treated as spent on duty for all intents and purposes. It is not denied that applicant has received his pay and allowances for the aforesaid period.

5. The short question ^{is} now for adjudication is applicant's claim for promotion as Head Constable w.e.f. the date his immediate juniors were so promoted.

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6. Respondents in Para 4.7 of their reply have stated that according to the rules, promotion to the rank of Head Constable is made by way of competitive test. A confirmed Constable having five years service upto the age of 40 years can appear in the competitive test for list 'A'. Those who qualify in the test are deputed for Lower School Course as per their seniority and on successful completion of Lower School Course they are promoted as Head Constable subject to the availability of posts.

7. Applicant's counsel Shri G.D. Gupta states that applicant was confirmed by order dated 18.7.94 w.e.f. 20.7.83. If so it is perhaps for this reason that applicant may not have been admitted to the competitive test held by respondents while as per Shri Bhardwaj's averments, were held in 1989 and in 1992.

8. We have not been informed of the exact date in 1989 when the competitive test was held but if the same was held prior to 11.9.89 applicant was out of service at that point of time and that may perhaps also have been one of the reasons why he was not admitted to the test held in 1989.

9. We are, however, informed that a fresh competitive test has been initiated in May, 1999 and the written test is to be held on 1.8.99 in which applicant has also been permitted to appear after the L.G., Delhi has extended the qualifying age from 40 years to 45 years as a one time exception.

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10. In view of the fact that the Tribunal by its order dated 17.5.89 directed Respondents to reinstate the applicant in service with all the consequential benefits, we hold that in the event applicant clears the written test in which he will be appearing on 1.6.89 and also clears the Lower School Course, he will be entitled to seniority from the date ⁷ ~~27~~ his immediate junior was promoted as Head Constable, with such further consequential benefits as flow therefrom. For this purpose, while assessing applicant's work and performance for being brought on to promotion list 'A', it will also be fair and reasonable to direct Respondents not to draw any adverse inference against applicant for the period from 1981 to 11.9.89 merely because there were no remarks recorded in applicant's ACRs, he being out of service during the aforesaid period. We direct accordingly.

11. This O.A. accordingly succeeds and is allowed to the extent as contained in Para 10 above. Respondents should implement the aforesaid directions within three months from the date of receipt of the result of applicant's participation in the Lower School Course. No costs.

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

S. R. Adice
(S.R. ADICE)
VICE CHAIRMAN (A)

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