

(b)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1546/94

New Delhi: this the 11<sup>th</sup> day of October, 1999.

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

HON'BLE MR.P.C.KANNAN, MEMBER(J)

Om Prakash,  
Sub-Inspector,  
S/o Shri Behari Lal,  
working as Sub-Inspector (Ex.),  
Delhi Police in Rashtrapati Bhawan,  
New Delhi ..... Applicant.

(By Advocate: Shri Shyam Babu)

Versus

1. Commissioner of Police,  
Delhi,  
Police Headquarters, I.P Estate,  
New Delhi-H0002.
2. Deputy Commissioner of Police,  
( West District ), Rajouri Garden,  
New Delhi ..... Respondents.

(By Advocate: Shri Vijay Pandita )

ORDER

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

Applicant impugns respondents' orders dated 4.10.90 ( Annexure-A ) and dated 10.6.94 and seeks confirmation as Sub-Inspector in Delhi Police w.e.f. 15.10.83 or 15.10.84, or in any case w.e.f. 1.5.85 when his juniors were promoted, with all consequential benefits including correction in the seniority list dated 8.6.90 (Annexure- E).

2. Applicant's case is that he joined as Sub Inspector (Ex. ) on 15.10.81 (Annexure-C), and was put on probation under Rule 5 (e) of Delhi Police (Appointment & Recruitment ) Rules, and completed the same successfully on 15.10.83. Meanwhile Rule 5(e) was amended on 2.5.83, and in the background of the

(7)

amendment, applicant successfully completed the maximum period of probation of 3 years on 15.10.84, on which date there was no punishment against him, nor had he been communicated any adverse remarks. Applicant however complains that he was not so confirmed and his juniors were confirmed as S.I. (Ex.) w.e.f. 1.5.85. He was eventually confirmed on 1.5.86.

3. Respondents in their reply admit that applicant was appointed as a temporary S.I. on 15.10.81. They state that he along with his batchmates were considered for confirmation when permanent posts became available on 1.5.86, but as he was censured on 17.8.85 for a default of 29.4.85; was again censured on 17.9.85 for a default of 1.5.85; and received adverse entries in his ACR for the period 1.4.85 to 8.9.85, he was passed over for confirmation on 1.5.85 and was confirmed only w.e.f. 1.5.86 by order dated 4.8.86. Respondents also stated that applicant never represented against his confirmation w.e.f. 1.5.86 in time. It is stated that on 19.4.91 he represented against the adverse remarks, which was accepted, and the adverse remarks for the period 1.4.85 to 8.9.85 were expunged by order dated 8.7.92. It is further stated that the integrated seniority list dated 8.6.90 was issued to which objections were called for within one month. Applicant represented against the same, which was rejected vide order dated 4.10.90 (Annexure-A), which he challenged only on 17.9.92 and the same was eventually rejected. Respondents urge that applicant has filed this OA with delay, and hence the

9

same is hit by limitation.

4. Applicant has filed rejoinder in which he has challenged respondents' contention and broadly reiterated his own.

5. We have heard both sides.

6. In so far as the plea of limitation taken by respondents is concerned, Shri Shyam Babu has taken the stand that applicant came to know about his confirmation w.e.f. 1.5.86 only from the seniority list dated 8.6.90 against which he represented well in time. He has argued that applicant's cause of action arose from respondents' order dated 10.6.94 (Annexure-B) and the OA is therefore not hit by limitation.

7. We are unable to accept Shri Shyam Babu's submission that the OA is not hit by limitation. Even if the applicant came to know that his date of confirmation was fixed as 1.5.86 only from the publication of the integrated seniority list dated 8.6.90, we find that he had submitted a representation dated 22.6.90, specifically impugning his placement in the seniority list dated 8.6.90 at Sl.No.1226 in which his date of confirmation had been shown as 1.5.86, and that representation was rejected by Memo dated 4.10.90 (Annexure-A). Applicant's cause of action therefore arose at least from 4.10.90 while this OA was filed on 19.7.94. The subsequent representations filed by applicant do not extend the period of limitation, as is clear from the Hon'ble Supreme Court's ruling in S.S.Rathor Vs. State of M.P.

2

9

AIR 1990 SC 10 which lays down that the cause of action shall be taken to arise on the date of the order of the higher authorities disposing of the appeal or representation, and repeated unsuccessful representations, not provided by law, do not enlarge the period of limitation. Under the circumstance the objection raised by the respondents that this OA is hit by limitation, is sustained.

8. Shri Shyam Babu has relied upon the CAT PB's order dated 2.4.93 passed in OA No.899/92 Narain Singh Vs. UOI & Ors. and the order dated 7.8.96 in OA No.3022/91 Gurjit Singh Vs. Lt. Governor of Delhi & Ors. In Gurjit Singh's case (supra), the plea of limitation was not taken by respondents, and hence the order in that case does not help the applicant. In Narain Singh's case (supra) the plea of limitation was taken by respondents, but the plea was impliedly rejected. That, however, does not mean that in the present case where the plea of limitation was specifically raised by respondents and is found to have merit, the same is required to be disregarded or rejected.

9. We have already noticed that in the light of Rathore's case (supra) this OA is squarely hit by limitation. It is accordingly dismissed. No costs.

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

*S. R. Adige*  
( S.R.ADIGE )  
VICE CHAIRMAN (A).

/ug/