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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1696 of 1994

New Delhi: December 9th, 1994.

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

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

1. Constable Ishwar Singh, No.11416/DAP,
Delhi Police.
2. Constable Mehak Singh, No.620/E,
Delhi Police,
Both the applicants,
c/o Mrs. Avnish Ahlawat, Advocate,
243, Lawyers' Chambers,
Delhi High Court,
New Delhi.Applicants.

By Advocate Ms. Rashmi Chhabra, proxy for
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 - 110 002.
2. The Deputy Commissioner of Police/HQ(I),
Delhi Police,
MSO Building,
IP Estate,
New Delhi- 110 002.Respondents.

By Advocate Sri O.N.Trisal.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Shri Ishwar Singh and one other, both Constables, Delhi Police, have prayed for being brought on to List 'A' immediately on successful completion of the Drill Instructor's Course with first class proficiency and for being sent on the Lower School Course along with the Constables currently under training on that course.

2. The O.A. came up for hearing on 25.8.94,

on which date Mrs. Ahlawat for the applicants prayed for interim relief to direct the respondents to permit the applicants to participate in the Lower School Course which, according to her, was to commence from 1.9.94, pending disposal of the O.A. Apart from calling upon the respondents to file the reply on the O.A. itself, the respondents were directed to file a short reply on the prayer for interim relief, and meanwhile they were directed to allow the applicant provisionally to participate in the said Lower School Course which was stated to commence from 1.9.94, subject to the applicants fulfilling all the qualifications including the medical examination, and subject to the clear understanding that if upon the final hearing on the prayer for interim relief, it was held that the applicants were not entitled to participate in the Lower School Course, their participation in the said school would be terminated forthwith.

3. The respondents in their reply dated 21.9.94 to the O.A. as well as on the prayer for interim relief contended that the applicants could not under rules be sent on that Lower School Course. The matter came up before the Tribunal on subsequent dates thereafter but no final orders were passed. On 30.11.94, at 4 p.m., (upon the prayer made by Mrs. Ahlawat for the applicants) a Special Bench was constituted to hear this case. On that date, Mrs. Ahlawat was present and was heard. None appeared for the respondents on that date, although we waited till well past 4-30 p.m., and although Shri Trisal, learned counsel for the respondents was present in the Court premises earlier in the day,

as noted in the order-sheet on that date. After hearing Mrs. Ahlawat, orders were reserved and were to be pronounced on 5.12.94. Thereafter, upon the prayer of Shri Trisal for the respondents before the Hon'ble Chairman this matter was for hearing re-listed on 3.12.94 and was heard at 4 p.m. on that date. Shri Trisal appeared for the respondents and Ms. Rashmi Chhabra, proxy for Mrs. Ahlawat appeared for the applicant. Both were heard.

4. The facts are not in dispute. The promotion from the rank of Constable to that of Head Constable is made under Rule 12 of Delhi Police (Promotion and Confirmation) Rules, 1980. Rule 12(a) reads as follows:-

"Rule 12(a): Promotion List 'A' (Executive) shall be a list of Constables (Executive) considered fit for being sent to Lower School Course, confirmed Constables having a minimum of five years service shall be eligible for consideration. The list shall be framed on the recommendation of the Departmental Promotion Committee which shall adopt the evaluation system based on

- (1) Service record
- (2) Seniority
- (3) Annual Confidential Report.
- (4) Acquittance in profession test which shall cover following subject:

(1) Physical Training and parade;

(2) Elementary law and police practical work.

(3) General knowledge.

(4) Professional work done.

A Constable upto 40 years of age shall be eligible to take and only ten chances will be allowed. The names of selected constables shall be brought on list 'A' in order of their seniority keeping in view the number of vacancies in the rank of Head Constable likely to be available in the following year."

5. Admittedly, the respondents prepared such a promotion List 'A' on 2.12.92. As the list contained well over 2000 names, they were sent in batches for the Lower School Course,

initially comprising 500 Constables and subsequently comprising 750 Constables. The first batch was sent on 21.4.93 to 4.9.93; 2nd on 11.10.93 to 23.3.94; 3rd on 2.5.94 and was still undergoing the course when the applicant filed O.A.No.1696/94; and the IVth batch was initially to undergo the course on 1.9.94 and was subsequently sent in October, 1994.

6. Meanwhile, the applicants, who were enlisted in the Delhi Police on 30.9.88, were deputed to undergo the Drill Inspectors Course at Police Training School, Jharoda Kalan, New Delhi commencing on 29.1.92. They underwent the said Course and passed the same securing the First Class Proficiency Certificate, the result of which was declared on 16.3.93(Annexure-C), from which it is clear that applicant Ishwar Singh secured IVth Position while applicant Mehak Singh secured IIInd Position.

7. The applicants are now pressing for which commenced in October, 1994 being sent on the Lower School Course/in the background of Rule 12(b) Delhi Police(Promotion and Confirmation) Rules, 1980 which reads as follows:-

"Rule 12(b): Constables with a minimum of two years of service shall be eligible to undergo Drill Instructors Course. On satisfactory completion of the Course with first class proficiency certificates, their names shall be brought on promotion List 'A' and sent for training in the next Lower School Course along with others, irrespective of their seniority."

They state that as they had satisfactorily completed the Drill Instructors Course with First Class

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Proficiency Certificate as far back in 1993, they have to be brought on to the Promotion List 'A' and sent for training on the Lower School Course which commenced in October, 1994. This claim is resisted by the respondents and the point for adjudication is whether the applicants are entitled to be brought on to the Promotion List 'A' which was drawn up on 2.12.92 and be sent to the Lower School Course which commenced in October, 1994, or whether they are entitled to be brought on to only a future Promotion List 'A' and be sent on a future Lower School Course.

8. In this connection, it is significant that although the applicants had cleared the Drill Instructors Course on 16.3.93 itself, they do not appear to have applied to go for/training in the Ist Batch which was sent on 21.4.93, or the 2nd Batch which was sent on 11.10.93, or indeed in the 3rd Batch which was sent on 2.5.94, but prayed only that they be sent ^{lower school} ~~the~~ ^{with} 4th Batch which was initially to be sent on 1.9.94 but was subsequently sent in October, 1994. As stated above, these batches of Constables belonged to Promotion List 'A' which was admittedly prepared on 2.12.92, well before the applicants completed ^{the} Drill Instructors Course on 16.3.93, and, therefore, we have no hesitation in holding that the applicants could not be brought on to the Promotion List 'A', which had been prepared on a date ~~before~~ before they had completed their Drill Instructors Course.

9. On a plain reading of Rule 12(b), it is clear that the Constables in the first instance have to complete the Drill Instructors Course satisfactorily,

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with First Class Proficiency Certificates and only thereafter can they be brought on to Promotion List 'A'. That list can only be prospective in time, and not retrospective, because otherwise it would do violence to/very structure of Rule 12(b). No doubt, Rule 12(b) goes on to state that after being brought on to Promotion List 'A', the Constables will be sent for training in the next Lower School Course irrespective of their seniority, but that cannot be understood to mean that they would be sent with the Constables who came on that list even before ^{themselves} they/had completed the Drill Instructors Course.

10. Mrs. Ahlawat has placed considerable reliance on the judgment of the Tribunal dated 5.3.90 in O.A.No.1103/89 Narender Singh & others Vs. Delhi Administration and a connected case. In that case, the Constables had appeared for the Drill Instructors Course held from 5.5.85 and passed the same with First Class in December, 1985. The result was declared on 13.1.86. Similarly, in connected case (O.A.No.1653/89), the Constables appeared for the Drill Instructors Course held from 1.10.84 and passed the same with First Class in May, 1985. The result was declared on 20.5.85. The Tribunal noted that right from 20.5.85 upto 1.10.86, no test or selection was made to prepare Promotion List 'A'. Meanwhile, Rule 12(b) Delhi Police (Promotion and Confirmation) Rules, 1980 as quoted in para 7 above was amended w.e.f. 1.10.86 (to be read in present form). The Tribunal in its judgment dated 5.3.90 (Supra) held that the benefit of the provisions of the amended Rule 12(b) would be available to those Constables w.e.f. 1.10.86 (and not from any prior date even though

they had successfully undergone the Drill Instructors Course) and the respondents were directed to bring them on to Promotion List 'A' w.e.f. 1.10.86. It is important to note that as the Tribunal itself had noticed in the above judgment that no test or selection had been held to prepare Promotion List 'A' right from 20.5.85 upto 1.10.86, the effect of the Tribunal's judgment could only be to bring those Constables on to a prospective Promotion List 'A', that is one which was prepared after 1.10.86. No doubt, the Tribunal directed that those Constables would be promoted to the post of Head Constables with effect from the dates of promotion of their juniors, but those directions were issued only because the applicants of that case had successfully completed the Lower School Course pursuant to the interim orders passed by the Tribunal. In the present case, however, the applicants before us have not even proceeded for the Lower School Course. Thus, the judgment dated 5.3.90(Supra) does not support the applicants' case that they have an enforceable right to be placed on a Promotion List 'A' which was prepared even before they had completed the essential requirement of passing the Drill Instructors Course.

11. Under the circumstances, the prayer of the applicants to be included in the 1992 Promotion List 'A' and be sent with the last batch of that list for the Lower School Course which commenced in October, 1994, is rejected.

12. Before parting with the case, however, we cannot refrain from commenting upon the considerable time lag between the preparation of one Promotion List

'A' and an other. The last Promotion List 'A' was prepared, as noted above, on 2.12.92 and the next list has not yet been prepared, although we are now nearly at the end of 1994. Shri Trisal was unable to tell us, when the next Promotion List 'A' would be prepared, and despite our persistent questioning on this point, he could only inform us that the respondents were alive to the situation and would prepare a Promotion List 'A' as expeditiously as possible. No doubt, the numbers in any such list are large (the 1992 Promotion List 'A' admittedly contained well over 2000 names) and the procedure for preparation of this list no doubt takes time, but even so the respondents would do well to examine the question of streamlining the procedure and bringing out this Promotion List 'A' regularly, in a particular month of each year or every two years depending upon the circumstances, to reduce, if not eliminate, the uncertainty that Constables might feel, as to whether they could be on a particular list or not. This appears all the more necessary in the cases like those of the applicants before us, who have performed extremely well in the Drill Instructors Course and for whom inclusion in Promotion List 'A' and participation in the Lower School Course regardless of seniority is a richly merited award for good work. If the purpose behind the amended Rule 12(b) is really to ~~not~~ act as an incentive, those who successfully complete the Drill Instructors Course with First Class Proficiency Certificates, should know with reasonable certainty as to approximately when they

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will be brought on to the next Promotion List 'A' (the time interval should be the minimum possible) and when they will be sent on the Lower School Course. It is hoped that the respondents will take up the preparation of the next Promotion List 'A' with the utmost expedition and inform the applicants thereafter when they can reasonably be expected to be sent on the Lower School Course in the light of Rule 12(b) Delhi Police (Promotion & Confirmation) Rules.

13. With these observations, this application is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER(J)

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(S.R.ADIGE)
MEMBER(A)

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