

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

D.A. 1331/1994

Dated 13-12-1995

Hon'ble Shri N.V.Krishnan, Acting Chairman  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Daljit Singh  
son of Shri Gurdyal Singh,  
R/o H-17, PS Rajinder Nagar,  
Delhi

... Applicant

(By Advocate Shri B.S. Charya )

Vs.

1. Commissioner of Police,  
Delhi Police, Police Hqrs.  
MSO Building, I.P.Estate,  
New Delhi-2
2. The Dy.Commissioner of Police,  
1st Bn.DAP, Kingsway Camp,  
New Delhi.
3. Union of India,  
Ministry of Home Affairs,  
Govt. of India, North Block,  
New Delhi.  
(Through its Secretary )

... Respondents

(By Advocate Shri Rajinder Panidata )

ORDER (ORAL)

(Hon'ble Shri N.V.Krishnan, Acting Chairman )

The grievance of the applicant is that he was not given an opportunity to appear in the promotion list 'A' held in 1992. The facts are not disputed. They have been clearly stated by the respondents which read as follows:-

" Briefly the facts of the case are that Constable Daljit Singh(here-in-after called the applicant) was enlisted as Constable in B.S.F. on 20.10.81 and was taken on deputation to Delhi Police w.e.f. 3.1.1986. Later on, the applicant was absorbed permanently in Delhi Police w.e.f. 5.12.1988. The applicant

(14)

had requested for appear in promotion list 'A' test (Exe.) held in 1992. The request of the applicant was considered in this Hdqrs. but could not be acceded to, as he was not holding the permanent post in his parent department and also had not been completed the five years service from the date of permanent absorption. As such, the applicant was not eligible for to take promotion list 'A'. test, because the cut-off date/norms prescribed in the rules cannot be relaxed. Accordingly concerned DCP was asked to inform the applicant vide PHQ's endst.No.8687-94/SIP(PHQ) dated 26.3.92. The applicant was declared confirmed w.e.f. 5.12.90 vide DCP/Ist Bn.DAP, Delhi's order No.6479-7537/ASIP-I Bn.DAP dated 2.7.1992. Later on, the Commandant 42 Bn BSP intimated on 6.8.1993 that the applicant was confirmed w.e.f. 1.1.1984 vide his office order No.Estt./1203/82 dated 16.6.1986."

The applicant contention that he is not responsible if his confirmation in B.S.F. was not recorded either in Service Book or was not communicated to the Delhi Police in time. If that had been communicated, he should have been *permitted to* appear in the test held in 1992 for inclusion of his name in the promotion list 'A'. Respondents also cannot be faulted for not permitting him to appear in that examination because the only information they had at that time was that he was permanently absorbed in Delhi Police from 5-12-1988 and he had not completed 5 years service.

2. *ie when* However, ~~is~~ the respondents got intimation on 6.8.1993 that the applicant was confirmed w.e.f. 1.1.1984 in BSF(i.e. parent department) they should have known that the applicant had the necessary length of service for being considered for inclusion his name in the promotion list 'A'.

V

(15)

3. Respondents state that the applicant would be given an opportunity to appear in the promotion list 'A' test as and when it is held in future. They also state that information about such cases like the applicant is being collected to find out whether needful can be done.

4. We have heard the parties. In our view the only action which should have been taken by the respondents is to hold a special test to consider the case of the applicant for inclusion of his name in the promotion list 'A' prepared as a result of the examination held in 1992. If there are others also left out like the applicant, it is open to the respondents to include them also for conducting such examination, but that should not delay the process of holding of this test because on the basis of list prepared in 1992 people have been promoted.

5. In the circumstances, we dispose of this OA with a direction to the respondents 1 and 2 to hold such a supplementary test within three months from the date of receipt of a copy of this order to consider including the applicants name in the list 'A' prepared as result of holding the test in 1992 and take further consequential action in accordance with law. OA is disposed of at the admission stage.

Lakshmi Summinathan  
(Smt. Lakshmi Summinathan)

Member (J)

N.V.Krishnan  
(N.V.Krishnan B/12/F)

Acting Chairman

sk