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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1888/94

New Delhi, this the 22nd February, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. Shri Raj Kumar, Head Constable(No.631)
s/o Shri Tulsi Rani,
Village Bhanswal Kalan,
Sonapat(Haryana).

2. Shri Benjamin Kujur,
s/o Shri John,
R/o Vill. Gopal Pur,
P.S. Timar Pur, North Distt.
Delhi.

... Applicants

By Advocate: Shri S.K. Sinha, Proxy for
Shri Jog Singh

Vs.

1. Commissioner of Police,
I.P. Estate, PHQ., New Delhi.

2. Dy. Commissioner of Police,
Communication, Old Police Lines,
Rajpur Road, Delhi.

... Respondents

By Advocate: Shri Anoop Bagai

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

Both the applicants are confirmed Head Constables in Delhi Police w.e.f. 9.5.89 and they belong to the reserved category quota as provided under Rule 10 of the Delhi Police (Promotion & Confirmation) Rules, 1980. The relevant O.M. of D.O.P.T in this respect is dated 19.8.93. For the promotion to the post of Wireless Operator(ASI) which is non selection post for promotes from the rank of Head Constable provides that the confirmed Head Constables(AWOs) TPOs with 5 years service in the grade who have passed Gr.IIInd proficiency Test for Wireless Operators conducted/approved by the Dte. of

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Co-ordination Police Wireless or from amongst Telephone Exchange Operators with 5 years service in the Grade and having passed Grade IIIrd and thereafter Grade IIInd Proficiency test of Wireless Operators Course conducted/approved by D.C.P.W. failing which from amongst confirmed Head Constables (AWO/TPOs) and Telephone Exchange Operators having passed Grade III course conducted by DCP/Commissioner, Delhi with 8 years service in the grade, subject to the condition that they shall pass Grade II (Wireless Operators) course conducted/approved by DCPW, within a period of 3 years from the date of promotion otherwise they shall be reverted to their substantive rank of Head Constable.

2. The contention of the applicants is that they fulfil all the conditions meant to be promoted to ASI(W.O.). He has also made a representation to the Commissioner of Police to undertake Grade II (W.O.) course within the stipulated period of 3 years. The respondents have summoned by the memo. dated 7.8.92 a number of candidates who have been approved by the Dy. Commissioner of Police and brought on promotion list 'D' for the post of Asstt. Sub-Inspector with effect from 3.8.92. The relief claimed by the applicant in this Q.A. is that a direction be issued to the respondents to send the applicant for Gr.II course alongwith others after inducting his name in the list (although it means both the applicants have to join together). There is alternatively prayer for direction to the respondents to consider and promote the applicant under the second part of Rules 12 of the Promotion Rules and thirdly the impugned order dated 11.4.94 be quashed. When the application came before the Tribunal on 20.9.94, a direction was issued to the respondents and permitted both the applicants to participate in the said training

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course commencing from 23.9.94. In pursuance to that order the applicants have joined the said training course.

3. A notice was also issued to the respondents who filed their reply. In the reply, it is stated that the applicants have already been sent for Grade II W.O. course alongwith others and they have already joined the course at the time when the counter was filed. It is also stated that the name of the applicants for promotion as ASI(W.O.) had already been sent to P.H.Q. by the memo. dated 11.4.94 and the decision of the D.P.C. is still awaited in this regard. The applicants themselves have been hasty in their action in not awaiting the result of the aforesaid D.P.C. Regarding the application of Rule 12 of the Delhi Police (Promotion & Confirmation) Rules, 1980 it is said that this is ^{an} alternative mode of promotion when the other two modes of filling up the vacancies are not available. It is also stated that the reservation is only to the extent of 15% and not 17% as referred to in this application. The applicant has also filed the rejoinder reiterating the facts already stated in the O.A.

4. We have heard the learned proxy counsel Shri S.K. Sinha for Shri Jog Singh, counsel for the applicants and Shri Anoop Bagai for the respondents.

5. The applicant has filed Annexure A-6 at page 20 of the paperbook regarding filling up of the post of Wireless Operator(ASI/SL). The relevant portion has been quoted above. The two modes of promotion being first to be adopted failing both of them confirmed Head Constable with 8 years of service in the grade may be promoted to the rank of ASI subject to their passing Grade II Wireless Operator course conducted by the DCPW and in case they do not make a grade in the said course, they shall be

reverted to the post of Head Constable. The list annexed with the original application is of August, 1992 when the applicant did not possess 8 years of service in the grade of Head Constable. He was promoted as Head Constable in November, 1984. He was confirmed in May, 1989. Even taking the length of service from November, 1984 he would complete the same in November, 1992. During the course of hearing it was pointed out that the respondents have also issued a list of promotion in the year 1993. At that time, the applicant had already completed 8 years of service. There is nothing on record to show whether the applicant was considered alongwith others in the reserved quota for preparing select list of promotion to the Grade of ASI(W.O.). However, we are confining this application only to the reliefs prayed for by the applicant i.e. he should be sent for training Grade II course and that the order passed on his representation dated 11.4.94 be quashed. Both these reliefs have been admitted by the respondents in their reply. Regarding the first relief the respondents have already sent unconditional the applicant for Grade II course and it is expected that he will not be withdrawn from that course till he completes the same alongwith others batch mates. He will be allowed to appear in the examination, if any and result shall be declared accordingly. Regarding the second relief prayed for for quashing the impugned order dated 11.4.94, the respondents have clearly stated that the matter has been referred to the D.P.C. and they are awaiting the result/recommendation of the D.P.C. and the applicant has in hot haste filed this application without awaiting that result. The averments have been made by the respondents at internal page 8 of the counter in sub paras (i), (ii) and (iii) of para J.

6. In view of the above facts and circumstances, we dispose of the application that the respondents shall allow the applicant to continue in the said training for Grade II on which he was sent by the impugned order dated 20.9.94 and he shall be allowed to complete the training and be allowed to appear in the examination or test whatsoever and declare the result. The order dated 11.4.94 is also quashed with the direction to the respondents to consider the applicant for promotion on the basis of Annexure A-6, the relevant portion of which has been quoted in the earlier part of the judgement taking into account the quota reserved for S.C. candidates.

7. If the applicant is still aggrieved by any subsequent order or the promotion is not effected according to reservation point, he shall have a liberty to file fresh application, if so advised, according to law. The application is disposed of accordingly with no order as to costs.

P. J. 26
(P.T. THIRUVENGADAM)
MEMBER(A)

J. P. Sharma
(J.P. SHARMA)
MEMBER(J)

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