

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2198/2000

Monday, this the day of 2nd July, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Man Singh
S/O Shri Charan Singh
Working as Head Constable,
(Asstt. Wireless Operator in the
Office of Deputy Commissioner of Police
(Communication Unit)
Old Police Lines,
Delhi. ...Applicant

(By Advocate: Shri P.M. Ahlawat)

Versus

1. Commissioner of Police, Delhi,
Police Headquarters,
New Delhi.
2. Deputy Commissioner of Police
(Communication Unit)
Old Police Lines,
Delhi.

...Respondents

(By Advocate: Shri R.K. Singh for Shri A.K. Chopra)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):-

In the disciplinary proceedings drawn up against him, the applicant was punished, inter alia, with forfeiture of one year's approved service temporarily for a period of one year entailing reduction in his pay from the stage of Rs.1150/- to Rs.1130/- PM in the pay scale of Rs.950-20-1150-EB-25-1400/-. The aforesaid order dated 27.8.1997 passed by the disciplinary authority was taken in appeal before the appellate authority. The appellate authority, after consideration of the grounds of appeal, has set aside the order of punishment by his order of 12.4.1999. Following this, a review DPC was held on 14.6.1999. As a result, the applicant was admitted to the

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promotion list 'B' (Tech.) w.e.f. 10.10.1995. However, by the same order of 15.6.1999, the competent authority granted only proforma promotion to the applicant for the period from 10.10.1995 to 14.6.1999 with a clear direction that the applicant will not be entitled to draw arrears of pay and allowances etc., holding at the same time that the aforesaid period from 10.10.1995 to 14.6.1999 will otherwise be counted towards fixation of the applicant's pay, increments, seniority etc. Not satisfied with the grant of proforma promotion as above, the applicant filed a representation before the Commissioner of Police, New Delhi on 19.8.1999 which was summarily rejected by the Commissioner of Police vide order conveyed on 21.10.1999. The applicant is before us seeking grant of arrears of pay and allowances in respect of the aforesaid period from 10.10.1995 to 14.6.1999.

2. We have heard the learned counsel on either side at length and have also perused the material placed on record.

3. Two points have been raised by the learned counsel appearing on behalf of the applicant. Firstly, he contends that the applicant continues to perform the same set of duties and responsibilities after promotion which he had been performing prior to the issuance of the order dated 14.6.1999 granting proforma promotion. The learned counsel has next proceeded to place reliance on the ratio of the judgements of this Tribunal in the cases of Roshan Lal Versus Union of India decided on 27.5.1986 and reported as ATR 1987 (1) CAT 121 and Shri Chokha Ram

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versus Union of India & Others decided on 11.1.1990 and reproduced in 1990 (1) ATJ 451, both of which essentially lay down the principle that if an applicant has been found fit for promotion after a review DPC, he will be entitled to arrears of pay and allowances from the date of his promotion even though he may not have performed the duties and responsibilities of the promotional post during the period in question, the justification being that the applicant has been deprived of the promotional post for no fault of his. In the present case also, we find after a perusal of the order passed by the appellate authority that the applicant cannot be blamed in any manner for having not been actually promoted w.e.f. 10.10.1995. The learned counsel has placed a copy of yet another order passed by this Tribunal in Prem Singh Versus Commissioner of Police, Delhi passed on 16.2.1993 in OA-1736/1991. This order, we find, places reliance on the Roshan Lal's case (supra) and has accordingly allowed the OA with direction for payment of arrears of pay and allowances in a similar case. The learned proxy counsel appearing on behalf of the respondents has not been able to place before us any judgement of this Tribunal or of the Apex Court holding a principle contrary to the aforesaid principle upheld by this Tribunal in the aforesaid cases.

4. In the circumstances, we are inclined to allow the present OA even without getting involved with the other question raised by the learned counsel about the applicant continuing to perform the same set of duties and responsibilities all along.

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5. For the reasons mentioned above, the OA is allowed. The order dated 21.10.1999 (Annexure A-1) is quashed and set aside and the respondents are directed to grant relief to the applicant in terms of clause 8 (i) of the OA which recites as under:-

"(i) to issue directions to the respondents to modify the promotion order dated 23.6.1999 to the effect that the applicant will be entitled to draw pay and allowances for the period w.e.f. 10.10.1995 to 14.6.1995 as Head Constable (AWO) with all other consequential benefits.

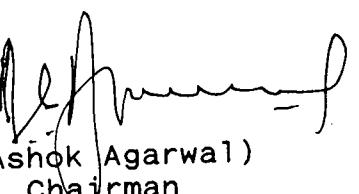
6. Further since the applicant cannot be faulted for the delay that has taken place in this matter, he will also be entitled to the relief sought by him in terms of relief clause 8 (iii) of the OA which recites as under, with this difference that the rate of interest will be allowed @ 12% p.a. and not @ 18%.

(iii) To allow arrears of pay and allowances to the applicants along with 18% p.a. interest calculated on year-wise basis, which are legitimately due to the applicant till the same are paid to him eventually."

7. Present OA is allowed in the aforesated terms.

No costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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