

26

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.786/2000

New Delhi, this the 6th day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri V. Srikantan, Member(A)

Chaman Singh (D3692)
152, III Gate Police Colony
New Delhi .. Applicant
(Shri Shyam Babu, Advocate)

versus

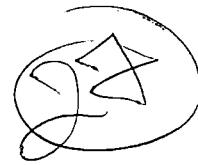
Government of NCT of Delhi, through

1. Chief Secretary
5, Sham Nath Marg, Delhi
2. Commissioner of Police
Police Headquarters
IP Estate, New Delhi
3. Dy. Commissioner of Police
(Provisioning & Lines)
Rajpur Road, Delhi
4. Ramesh Chander (D3683)
Working in the office of the
Dy. Commissioner of Police
North Distt. Delhi
(service to be effected through
DCP/North Distt, PS Civil Lines
Delhi) .. Respondents

(Shri Ajay Gupta, Advocate for R-1 to R-3 &
Shri Sachin Chauhan, Advocate for R-4)

ORDER(oral)
Shri V. Srikantan, Member(A)

The grievance of the applicant, who is working as Head Constable, MT (Operational), is that he was eligible for being promoted as ASI, MT (Operational) and further to the post of SI, MT (Operational) but the respondents have changed the cadre of Shri Ramesh Chander, Respondent No.4 (R-4, for short) from the cadre of ASI (Driver) to ASI, MT (Operational), vide order dated 16.6.85 and promoted R-4 as SI, MT (Ops.) from the same date i.e. 16.6.85 in total violation of the Recruitment Rules.



Being aggrieved, the applicant seeks a declaration that absorption of R-4 as ASI, MT (Operational) and further promotion as SI, MT (Operational) as illegal and arbitrary and further direction to the respondents to promote the applicant as ST, MT (Operational) w.e.f. May, 1994 or any other suitable date which this Tribunal thinks fit and proper and grant him all consequential benefits like seniority, monetary or promotion.

2. During the pendency of this application, respondents have issued two orders, first one dated 14.3.2002 and the second dated 8.5.2002. In the first order dated 14.3.2002, applicant has been promoted as ASI, MT (Ops.) with effect from 26.11.87(AN). In the same order R-4 has also been promoted as ASI, MT (Ops.) with effect from 26.11.87 (AN). Through second order dated 8.5.2002, respondents have promoted applicant to officiate as SI, MT (Ops.) w.e.f. 27.11.93. Through the same order R-4 has also been promoted to officiate as SI, MT (Ops.) w.e.f. 27.11.93.

3. In view of the fact that R-4 has now been promoted as SI, MT (Ops.) w.e.f. 27.11.93, the impugned order dated 16.6.95 no longer subsists. If the applicant is aggrieved by the promotion of R-4 to the post of SI, MT (Ops.) from the revised date of 27.11.93, it is open to applicant to take further action as per law.

BB

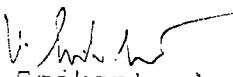
3

4. In so far as applicant is concerned, it is seen that respondents have now granted applicant proforma promotion as SI, MT (Opns.) with effect from 27.11.93, whereas he had sought for promotion to the said post earlier with effect from May, 1994. Accordingly, applicant has since been given the benefit of promotion from an earlier date than asked for. However, it was contended by the learned counsel for applicant that though the applicant is now satisfied with the promotion given to him to the post of SI, MT (Opns.) by respondents, applicant still has a grievance which is that it has been mentioned in the promotion orders dated 14.3.2002 and 8.5.2002 that applicant has been given only proforma promotion and in respect of promotion to the post of ASI, MT (Opns.) the period from 26.11.87 (AN) to 6.6.96 will only count towards fixation of pay, increments and seniority etc. and in respect of promotion to the post of SI, MT (Opns.), the period from 27.11.93 to 6.11.96 (FN) will only count towards fixation of pay, increments and seniority etc. It is contended by the learned counsel for applicant that applicant is also entitled to payment of arrears on account of pay fixation and accordingly the same should be paid to him. This was vehemently opposed by learned counsel for respondents on the ground that applicant had not worked against these posts and hence he is not entitled to arrears on account of these proforma promotions.

18

5. We have carefully considered these submissions. The very fact that respondents on their own volition have now issued the revised orders promoting applicant to the post of ASI, MT (Opns.) and thereafter as SI, MT (Opns.) clearly indicates that respondents have realised their mistake and have corrected the record. In these circumstances, we are of the view that applicant is entitled to arrears of pay and allowance on account of pay fixation on his promotion to the posts of ASI, MT (Opns.) and SI, MT (Opns.).

6. For the above reasons, this OA is allowed in part. Respondents are directed to pay arrears on account of pay fixation to applicant on promotion as ASI, MT (Opns.) from 26.11.87 and again as SI, MT (Opns.) from 27.11.93. This direction to be complied with within a period of three months from the date of receipt of a copy of this order. No costs.


(V. Srikantan)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice Chairman(J)

/gtv/