

Central Administrative Tribunal, Principal Bench

Original Application No.806 of 2000

New Delhi, this the 26th day of March, 2001

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M. P. Singh, Member (A)

Fazruddin
PIS No. 28750308
S/o Shri Usuf
R/o Village & PO Akeria
Tehsil Nuh, Distt. Gurgaon
Haryana

- Applicant

(By Advocate - Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary
5, Sham Nath Marg,
Delhi

2. Commissioner of Police
Police Headquarters
IP Estate, New Delhi

3. Addl. Commissioner of Police
(Establishment)
Police Headquarters,
I.P. Estate, MSO Building
New Delhi

4. Dy. Commissioner of Police (Licensing)
Police Headquarters,
I.P. Estate, MSO Building
New Delhi

- Respondents

(By Advocate: Shri Devesh Singh)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant in this case is aggrieved of the fact that he has been declared 'unfit' for admission to the promotion list D-I (Exe.) on the ground of indifferent service record. Applicant claims that as per the information received, he is upto the mark and having three 'Good' or above reports as per the criteria of promotion. Applicant has claimed that he was punished only once by the order of respondents dated 9.7.97 and punishment of censure was

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inflicted upon him. It is submitted that censure is not a bar for promotion being minor penalty and hence, the action of respondents declaring him unfit is liable to be set aside. Applicant has prayed for the following reliefs:

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- i) to direct the respondents to produce the records of D.P.C. and A.C. Rs of the applicant;
- ii) to declare the action of the respondents in rejecting the applicant for promotion list D-1 (Exe.) (Asstt. Sub-Inspector) as illegal, arbitrary and quash the same; and
- iii) to direct the respondents to hold the review DPC for promotion to the applicant to list D-1 (Exe.) (Asstt. Sub-Inspector) and in case the applicant found fit then promote him from the date when his immediate junior was promoted, with all consequential benefits like salary and seniority etc."

2. O.A. is being contested by respondents. It is pleaded that as per rule 7 of Delhi Police (Promotion and Confirmation) Rules, it is the total record that is seen by the D.P.C. and even one censure can come up in the way of granting promotion to an official. The facts of the case are more or less admitted that only one censure was awarded to the applicant and there was no other punishment inflicted upon the applicant.

3. The only controversy which is to be seen is whether this censure can be one of the factors for denying promotion to the applicant or not. Learned counsel for the applicant has referred to a judgement

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in O.A.466/99 dated 22.2.2000 given by a co-ordinate Bench of the Tribunal wherein under similar circumstances, this Tribunal while referring to the instructions of Delhi Police dated 23.9.92, had observed that the effect of censure would last only for six months. It was also observed that the censure could not now be held against the applicant in order to deny him his claim for being considered for promotion.

10

4. Contrary to this, learned counsel for the respondents referred to a judgement in O.A.1642/95 which was decided alongwith two other OAs wherein the Tribunal relying upon the judgement in the case of Harish Chander Yati vs. Commissioner of Police (O.A.1912/95), had held that punishment of censure does not cease to be a relevant factor after a period of six months.

5. Question now arises whether the effect of punishment of censure continues after a period of six months or not. For this purpose, we will have to read rule 7 of Delhi Police (Promotion & Confirmation) Rules which provide that for promotion to 'A', 'B', 'C', D-I, D-II, E-I and E-II category, entire record is to be seen. But this rule has to be read alongwith instructions dated 23.9.92 issued by the respondents themselves. These instructions have been reiterated in circular dated 3.12.98. Paragraph 5 of the said circular states that the officers who have been awarded censure during the last six months with no other punishment, can be allowed to be brought on

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promotion list. However, the effect of censure debarring the official for promotion by six months from the date of award, shall continue. Thus it is clear that the department itself has considered the matter afresh and has taken a view that the officers who have been awarded censure during the last six months with no other punishment can be allowed to be brought on promotion list. Since this circular has been issued on 3.12.98, therefore, the judgement given in earlier O.A. i.e. 1642/95, cannot be said to have considered the instructions of 1998. On the basis of this circular, we need not refer this matter to Full Bench, since instructions of 1998 were not considered in the judgement in O.A.1642/95.

6. As per the latest judgement of Court-I of this Tribunal in O.A.466/99 wherein it has been held that censure cannot now be held against the applicant in order to deny him his claim for promotion, this O.A. can also be allowed. Accordingly, we allow this O.A. with a direction to respondents to hold a review DPC to consider the applicant's case for promotion as ASI (Executive), ignoring the punishment of censure awarded to the applicant. These directions should be implemented within period of two months from the date of receipt of a copy of this order. No costs.

(M.P. Singh)
Member (A)

(Kuldip Singh)
Member (J)

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