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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No 109/89

New Delhi this 18th Day of February 1994

The Hon'ble Mr. J.P. Sharma, Member(J)

The Hon'ble Mr. B.K. Singh, Member (A)

Shri Mussarat Khan,
Son of Shri Manowar Khan,
Resident of A-278 Police Colony, PTS,
Malviya Nagar,
New Delhi-110 017. ... Applicant

(By Advocate Shri B.S. Charya)

Versus

1. Commissioner of Police,
Delhi Police,
Police Headquarters, MSO Building,
New Delhi.

2. Union of India,
Ministry of Home Affairs,
Government of India,
through its Secretary Respondents

(By Advocate Smt. Avnish Ahlawat)

O R D E R

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

The applicant at the time of filing this application in January 1989 was posted as Sub-inspector Police (SR) Special Branch, Police Headquarters, New Delhi. His grievance is that he was not allowed to undergo Upper School Training Course ABCD entitling him to seek promotion to the rank of Inspector of Police. The applicant has invoked provisions of Appendix 12.3.A of the Punjab Police Rules in respect of Sherthand Reporters. The applicant has put in more than six years service as per the rules. The other grievance of the applicant is that he was reverted on 29.5.1986 and subsequently promoted by the order dated 6.1.1987 but the intervening period rendered in the capacity was not counted.

2. The reliefs claimed by the applicant are as follows:

- a) A direction to the respondents for giving promotion to the applicant as Sub-Inspector (Executive) in accordance with the provisions of Clause 12.3.A of the Punjab Police Rules after completion of 3 years as Assistant Sub-Inspector (SR) in January 1979;
- b) A direction to the respondents to give promotion to the applicant in accordance with clause 12.3.F of the Punjab Police Rules to the post of Inspector in Executive in their after completion of further period of 6 years after reckoning his promotion as Sub-Inspector (Executive) from the date it became due;
- c) Declaration to the effect that the applicant is entitled to be brought in and treated at par of the Executive Cadre of the Sub-Inspectors and Inspector respectively with the declaration that the action of the respondents in placing applicant in technical cadre be declared as wholly illegal, invalid, unreasonable, improper and unwarranted.
- d) To quash the impugned order of reversion dated 13.6.1986 and treat the alleged date between 29.5.1986 to 6.1.1987 as service rendered as Sub-Inspector (SR) and consequently all consequential benefits admissible to him.

A notice was issued to the respondents who contested the application and opposed the grant of the relief:

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We have heard the learned counsel of the parties at length and perused the record. The applicant was appointed as ASI (SH) in Delhi Police on 31.1.1976. He was confirmed on 31.1.1979. He was promoted to officiate as Sub-Inspector Shorthand (Reporter) with effect from 4.6.1981 on adhoc basis. He was reverted as Assistant Sub-Inspector (SR) with effect from 29.5.1986. His name, however, was brought on promotion list 'E' (Technical) with effect from 6.1.1987 in terms of rules 16(ii) of the Delhi Police (Promotion and Confirmation) Rules 1980 and was also promoted to officiate as Sub Inspector (Shorthand Reporter) with effect from 6.1.1987. The provisions of Punjab Police Rules ceased to be applicable to Delhi Police and its personnel after the introduction of Delhi Police Act, 1978. The applicant was appointed when the ~~Punjab~~ ^{not} Police Act of 1961 was repealed. There is no provision in the new rules i.e. Delhi Police (Promotion and Confirmation) Rules 1980 (hereinafter called 'Rules') by which the applicant is governed for Upper School Training Course. The applicant has distinct cadre on ASI/SI (Shorthand Reporter) as per Rule 11 of the Rules. In view of the above facts and circumstances we have to consider whether the applicant is still governed by the Punjab Police Rules or he is governed by the rules of 1980. After the introduction of Delhi Police Act, 1978, certain statutory rules have also been framed and Delhi Police (Promotion and Confirmation) and (Appointment and Recruitment) Rules 1980 have been framed, the provisions of PPR ceased to be applicable to Delhi Police and its personnel. The learned counsel for the applicant

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has referred to the Notification dated 13.4.1978 issued under Sub-Section 3 of sub-section 43 of the Police Act, 1861 wherein after Rule 12.3.E Rule 12.3.F was added by which the post of Sherthand Reporter SI and ASI, the promotion or appointment to the post shall be made by the authority competent to appoint them. However these amendments do not give any benefit to the applicant. The applicant has already been considered for promotion to the grade of SI agreeing with new rules i.e. Delhi Police (Appointment and Confirmation) Rules 1980. The applicant was initially promoted purely on adhoc basis as Sub Inspector (SR) with effect from 29.5.1986 after his name was approved by DPC. He was brought on promotion list E (Technical) with effect from 6.1.1987 in terms of Rules 16(ii) of the Delhi Police (Promotion and Confirmation) Rules 1980. The contention of the learned counsel that the orders have been issued wrongly of his reversion to the post of Assistant Sub-Inspector is not at all justified. While working on adhoc basis, the applicant cannot claim regularisation unless he is considered by DPC ^{according} ~~agreeing~~ to the rules. Since he has ~~not~~ lien to the post of Sub-Inspector (SR), he could be reverted to the substantive post of ASI for that the applicant should not have any grudge. The applicant thereafter has been promoted in January 1987 on regular basis as Sub-Inspector (SR).

The other reliefs claimed by the applicant at ABC referred to above are totally barred by time. The applicant claims benefit of Clause 12.3.A and Clause 12.3.F of the Punjab Police Rules on the assumption

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that after 3 years of service as Assistant Sub-Inspector (SR), he is eligible for promotion to the post of SI (Executive) and he has assumed that promotion and on that assumption he claims after having worked after six years his promotion to the post of Inspector in the executive cadre. Though the respondents have taken the stand that Punjab Police Rules are not applicable to him after the repeal of Police Act of 1961 by the Delhi Police Act, 1978, even then the applicant cannot be granted these reliefs. He should have assailed this matter at the time when he aspired for these promotions. He cannot assume the promotion unless he is considered and promoted to the post. The learned counsel argued that when the applicant was appointed in 1976, Delhi Police Act 1978 was not in force and he was governed by the Punjab Police Rules regarding his terms and conditions of his service under which there was a provision for switching over to executive side. The contention of the learned counsel is that Delhi Administration has adopted Punjab Police Rules by a separate Notification issued in March 1978 referred to above.

The applicant's counsel has placed reliance on the decision in a bunch of cases No. OA 743/88 decided on 7.5.1992. The aforesaid judgement is solely based on the ratio declared in the case of Radhey Shyam Vs. Commissioner of Police reported in 1992 (21) ATC P 215. The petitioner of that case was also appointed as shorthand reporter/ASI under the Punjab Police Rules with effect from 6.3.1973. Subsequently he was promoted as ASI/Shorthand Reporter

in November 1980. A new clause 12.3(F) was inserted in those rules in April 1978 according to which he was entitled to be considered for promotion as inspector after rendering six years service as ASI (Executive) undergoing six months training and attending ABC & D course. The Tribunal in that case directed the respondents to consider the applicant for promotion to the post of Inspector in accordance with the amended Punjab Police Rules from the date he would have ordinarily become eligible for such promotion. The Bench also considered the implication of Section 149 of the Delhi Police Act, 1978. The Bench in that case observed that the provisions of the Punjab Police Rules gave a right available to him under the Punjab Police Rules in terms of which he was appointed to the post of Inspector (Executive). We have considered the above ratio. In fact there is a Full Bench decision on the point where a similar point was considered in the case of Raj Pal Singh and another Vs. Delhi Administration and ors. decided on 12.8. 1992 in OA No. 2442/88. After this decision of the Full Bench, the decisions relied upon by the learned counsel cannot hold the ground in the case of Raj Pal Singh. A disciplinary enquiry was held against the petitioner and in that case a plea was taken that the procedure prescribed by Rule 16.2(1) and 16.24 of the Punjab Police Rules 1934 not having been followed, the impugned orders are liable to be quashed. The Full Bench has considered Section 149 as well as Section 147 of the Delhi Police Act, 1978. The relevant Paras 6,7,8 and 9 are quoted below:

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" 6. It was next contended by Shri Verghese, learned counsel for the petitioners, that the procedure prescribed by Rules 12.2(1) and 16.24 of the Punjab Police Rules, 1934 (hereinafter referred to as 'Punjab Rules') and having been followed, the impugned orders are liable to be quashed. It was submitted that these rules continued to remain in force even after coming into force of the Delhi Police Act and the promulgation of the Delhi Rules having regard to the provisions of Section 149 of the Delhi Police Act. The contention of Mrs. Avnish Ahlawat, learned counsel for the respondents, is that consequent upon the coming into force of the Delhi Rules, the Punjab Rules relied upon by the petitioners stood repealed and hence were not required to be followed. The question for examination is as to whether the Rule 16.2(1) and Rule 16.24 of the Punjab Rules stood repealed consequent upon the coming into force of the Delhi Rules. The provision to Section 149 of the Delhi Police Act, 1978 provides that the Punjab Rules, as in force in Delhi, shall, in so far as they are consistent with this Act, be deemed to have been made under this Act. Section 147(1) and (2)(d) has conferred power on the Administrator (Lt. Governor) to make rules for carrying out the purpose of the Act including rules prescribing procedure for awarding punishment under Section 22 of the Act. It is in exercise of this power that the Delhi Rules were promulgated. A bare perusal of the Delhi Rules makes it clear that it is a complete code in so far as the procedure and principles regarding awarding of punishment is concerned. Rule 16 of the Delhi Rules has the title 'Procedure in departmental enquiries'. It contains detailed provisions regulating the procedure to be followed. Rule 16.24 of the Punjab Rules, likewise has the title 'Procedure in departmental enquiries'. It also contains detailed procedure to be followed in departmental enquiries. Rule 16 of the Delhi Rules and Rules 16.24 of the Punjab Rules deal with the identical subject namely procedure to be followed for imposition of punishment to the police Officers.

7. Rule 16.2(1) of the Punjab Rules reads as under:

"Dismissal shall be awarded only for the gravest acts of misconduct or as the cumulative effect of continued misconduct proving incorrigibility and complete unfitness for police service. In making such an award regard shall be had to the length of service

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of the offender and his claim to pension"

The corresponding provisions in the Delhi Rules are:

Rule 8(a) and Rule 10, which read as under

"Rule 8(a):

Dismissal/Removal. The punishment of dismissal or removal from service shall be awarded for the act of grave misconduct rendering him unfit for police service".

"Rule 10.

Maintenance of discipline. The previous record of an officer against whom charges have been proved, if shows, continued misconduct indicating incorrigibility and complete unfitness for police service, the punishment awarded shall ordinarily be dismissal from service. When complete unfitness for police service is not established, but unfitness for a particular rank is proved, the punishment shall normally be reduction in rank".

Both these set of provisions deal with the identical subject namely the principles governing the quantum of punishment to be imposed. The rule making authority which was aware of the Punjab Rules on the subject has chosen to make new and comprehensive rules on the same subject. The clear intention was to supersede the Punjab Rules on the subject which were kept alive by Section 149 of the Act. There is, therefore, implied repeal of the corresponding set of Punjab Rules.

8. It is no doubt true that there is no provision in the Delhi Rules expressly repealing the corresponding provisions of the Punjab Rules. In similar circumstances, the Supreme Court had occasion to apply the principle of implied repeal in a decision report in AIR 1987 SC 1015 between Yogender Pal Singh & Others Vs. Union of India & Ors. That was a case in which another set of rules made under the Delhi Police Act entitled the Delhi Police (Appointment and Recruitment), Rules, 1980 were held to have impliedly repealed Rules 12.14 and 12.15 of the Punjab Rules on the subject of Appointment and Recruitment. Dealing with the question of implied repeal, the Supreme Court has held as under:

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"Section 149(2) of the Act no doubt provided that the rules framed under the police act of 1861 would continue to be in force after the Act came into force in so far as they were consistent with the Act but at the same time Section 147 of the Act authorised the Administrator (Lt. Governor of the Union Territory of Delhi) to make rules regarding recruitment to, and the pay, allowances and all other conditions of service of the members of the Delhi Police under clause (b) of Section 5. It is not disputed that Rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 and the rules promulgated on December 31, 1980 deal with the identical subject namely, the rule of recruitment of Constable to the Delhi Police Service. Therefore, on the promulgation of the Rules on December 31, 1980 which covered the subject dealt with by rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 had the effect of repealing by necessary implication rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 even though initially there was no express provision in the Rules to the effect that rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 stood repealed with effect from December 31, 1980. It is well settled that when a competent authority makes a new law which is totally inconsistent with the earlier law and that the two cannot stand together any longer it must be construed that the earlier law had been repealed by necessary implication by the later law. Applying the above test it has to be held in this case that rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 stood repealed with effect from December 31, 1980 and rule 32 of the Rules which was introduced by way of amendment on May 2, 1983 had not the effect reviving rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 and keeping them alive beyond December 31, 1980 upto May 1983"

"We have already held that Rule 8 read with Rule 10 and Rule 16 of the Delhi Rules have dealt with the very subject covered by Rule 16.2(1) and Rule 16.24 of the Punjab Rules respectively. In our opinion, the two set of rules cannot co-exist on the same subject matter. Following the aforesaid decision of the Supreme Court, we have no hesitation in holding that the provisions of Rule 16.2 and Rule 16.24 of the Punjab Rules relied upon by the petitioners

stood repealed consequent upon the coming into force of the Delhi Rules on 27.7.1982. Hence, the petitioners cannot challenge the impugned orders on the ground that the procedure prescribed in the Punjab Rules has not been followed in this case.

9. A learned Single Judge of the Delhi High Court has in the judgement reported in 1984(2) SLR 149 between Sukhbir Singh Vs. The Deputy Commissioner of Police, New Delhi and ors., held that Rule 16.2(1) continues to remain in force even after the Delhi Rules came into force. For the reasons already discussed and in the light of the decision of the Supreme Court, in that respect it is not possible to agree with the view taken in the said decision."

In fact after the Full Bench decision no further probe is required whether the applicant in this case is still governed by the provisions of Rule 12.3.A of the Punjab Police Rules. The Delhi Police (Promotion and Confirmation) Rules 1980 have ^{re-}placed the Punjab Police Rules and Rule 6 provides that promotion is to the earned only in the concerned cadre. The applicant belongs to ministerial cadre and so he can get promotion only in the ministerial cadre, as envisaged in Rule 16 of the Delhi Police (Promotion and Confirmation) Rule 1980. Rule 22 of the above rules have repealed the application of Punjab Police Rules relating to confirmation and promotion of the employee subject to the provisions contained in the proviso to sub-section (1) and (2) of Section 149 of the Delhi Police Act, 1978.


In view of the above facts and circumstances the the applicant cannot claim his promotion to the

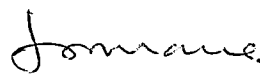
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Executive side as Inspector invoking Rule 12.3.A of the Punjab Police Rules.

The other reliefs claimed by the applicant are incidental to this promotion and since the promotion cannot be granted to the cadre of Inspector (Executive), those reliefs also though being barred by time cannot be granted to the applicant.

As regards the quashing of the order of reversion based on 13.6.1986, the applicant had been promoted immediately afterwards as per the Delhi Police (Promotion and Confirmation) Rules, 1987 when his name was brought in promotion list 'E' under Section 16 and list 'F' under Rule 17 of the said rules. The applicant cannot therefore have any grievance on that account also. The application therefore, is devoid of merit and dismissed.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member (J)

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The Hon'ble Mr. J.P.Sharma, Member (J)

The Hon'ble Mr. B.K.Singh, Member (A)

Shri Musarat Khan,
Son of Shri Mansur Khan,
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... Applicant

(By Advocate Shri B.S.Charya)

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 - b) A direction to the respondents to give promotion to the applicant in accordance with clause 12.3.F of the Punjab Police Rules to the post of Inspector in Executive in their after reckoning his promotion as Sub-Inspector (Executive) from the date it became due;
 - c) Declaration to the effect that the applicant is entitled to be brought in and treated at par of the Executive Cadre of the Sub-Inspectors and Inspector respectively with the declaration that the action of the respondents in placing applicant in technical cadre be declared as wholly illegal, invalid, unreasonable, improper and unwarranted.
 - d) To quash the impugned order of reversion dated 13.6.86 and treat the alleged date between 29.5.1986 to 6.1.1987 as service rendered as Sub-Inspector (SR) and consequently all consequential benefits admissible to him. A notice was issued to the respondents who contested the application and opposed the grant of the relief:

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has referred to the Notification dated 13.4.1978 issued under Sub-Section 3 of sub-section 43 of the Police Act, 1861 wherein after Rule 12.3.E Rule 12.3.F was added by which the post of Shorthand Reporter SI and ASI, the promotion or appointment to the post shall be made by the authority competent to appoint them. However these amendments do not give any benefit to the applicant. The applicant has already been considered for promotion to the grade of SI agreeing with new rules i.e. Delhi Police (Appointment and Confirmation) Rules 1980. The applicant was initially promoted purely on ad hoc basis as Sub-Inspector (SR) with effect from 29.5.1986 after his name was approved by DPC. He was brought on promotion list E (Technical) with effect from 6.1.1987 in terms of Rules 16(ii) of the Delhi Police (Promotion and Confirmation) Rules 1980. The contention of the learned counsel that the orders have been issued wrongly of his reversion to the post of Assistant Sub-Inspector is not at all justified. While working on ad hoc basis, the applicant cannot claim regularisation unless he is considered by DPC according to the rules. Since he has no lien to the post of Sub-Inspector (SR), he could be reverted to the substantive post of ASI for that the applicant should not have any grudge. The applicant thereafter has been promoted in January 1987 on regular basis as Sub-Inspector (SR).

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that after 3 years of service as Assistant Sub-Inspector (SR), he is eligible for promotion to the post of SI (Executive) and he has assumed that promotion and on that assumption he claims after having worked after six years his promotion to the post of Inspector in the executive cadre. Though the respondents have taken the stand that Punjab Police Rules are not applicable to him after the repeal of Police Act of 1961 by the Delhi Police Act, 1978, even then the applicant cannot be granted these reliefs. He should have assailed this matter at the time when he aspired for these promotions. He cannot assume the promotion unless he is considered and promoted to the post. The learned counsel argued that when the applicant was appointed in 1976, Delhi Police Act 1978 was not in force and he was governed by the Punjab Police Rules regarding his terms and conditions of his service under which there was a provision for switching over to executive side. The contention of the learned counsel is that Delhi Administration has adopted Punjab Police Rules by a separate Notification issued in March 1978 referred to above.

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in November 1980. A new clause 12.3(F) was inserted in those rules in April 1978 according to which he was entitled to be considered for promotion as Inspector after rendering six years service as ASI (Executive) undergoing six months training and attending ABC & D courses. The Tribunal in that case directed the respondents to consider the applicant for promotion to the post of Inspector in accordance with the amended Punjab Police Rules from the date he would have ordinarily become eligible for such promotion. The Bench also considered the implication of Section 149 of the Delhi Police Act, 1978. The Bench in that case observed that the provisions of the Punjab Police Rules gave a right available to him under the Punjab Police Rules in terms of which he was appointed to the post of Inspector (Executive). We have considered the above ratio. In fact there is a Full Bench decision on the point where a similar point was considered in the case of Raj Pal Singh and another Vs. Delhi Administration and Ors. decided on 12.8.1992 in DA No. 2442/88. After this decision of the Full Bench, the decisions relied upon by the learned counsel cannot hold the ground in the case of Raj Pal Singh. A disciplinary enquiry was held against the petitioner and in that case a plea was taken that the procedure prescribed by Rule 16.2(1) and 16.24 of the Punjab Police Rules 1934 not having been followed, the impugned orders are liable to be quashed. The Full Bench has considered Section 149 as well as Section 147 of the Delhi Police Act, 1978. The relevant Paras 6, 7, 8 and 9 are quoted below:

"6. It was next contended by Shri Verghese, learned counsel for the petitioners, that the procedure prescribed by Rules 12.2(1) and 16.24 of the Punjab Police Rules, 1934 (Hereinafter referred to as 'Punjab Rules') and having been followed, the impugned orders are liable to be quashed. It was submitted that these rules continued to remain in force even after coming into force of the Delhi Police Act and the promulgation of the Delhi Rules having regard to the provisions of Section 149 of the Delhi Police Act. The contention of Mrs. Avnish Ahlawat, learned counsel for the respondents, is that consequent upon the coming into force of the Delhi Rules, the Punjab Rules relied upon by the petitioners stood repealed and hence were not required to be followed. The question for examination is as to whether the Rule 16.2(1) and Rule 16.24 of the Punjab Rules stood repealed consequent upon the coming into force of the Delhi Rules. The provision to Section 149 of the Delhi Police Act, 1978 provides that the Punjab Rules, as in force in Delhi, shall, in so far as they are consistent with this Act, be deemed to have been made under this Act. Section 147(1) and (2)(d) has conferred power on the Administrator (Lt. Governor) to make rules for carrying out the purpose of the Act including rules prescribing procedure for awarding punishment under Section 22 of the Act. It is in exercise of this power that the Delhi Rules were promulgated. A bare perusal of the Delhi Rules has the title 'Procedure in departmental enquiries'. It contains detailed provisions regulating the procedure to be followed. Rule 16.24 of the Punjab Rules, likewise has the title 'Procedure in departmental enquiries'. It also contains detailed procedure to be followed in departmental enquiries. Rule 16 of the Delhi Rules and Rules 16.24 of the Punjab Rules deal with the identical subject namely procedure to be followed for imposition of punishment to the police Officers.

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The corresponding provisions in the Delhi Rules are:

Rule 8(a) and Rule 10, which read as under

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Both these set of provisions deal with the identical subject namely the principles governing the quantum of punishment to be imposed. The rule making authority which was aware of the Punjab Rules on the subject has chosen to make new and comprehensive rules on the same subject. The clear intention was to supersede the Punjab Rules on the subject which were kept alive by Section 149 of the Act. There is, therefore, implied repeal of the corresponding set of Punjab Rules.

8. It is no doubt true that there is no provision in the Delhi Rules expressly repealing the corresponding provisions of the Punjab Rules. In similar circumstances, the Supreme Court had occasion to apply the principle of implied repeal in a decision reported in AIR 1987 SC 1015 between Yogender Pal Singh & Others Vs. Union of India & Ors. That was a case in which another set of rules made under the Delhi Police Act entitled the Delhi Police (Appointment and Recruitment), Rules, 1980 were held to have impliedly repealed Rules 12.14 and 12.15 of the Punjab Rules on the subject of Appointment and Recruitment. Dealing with the question of implied repeal, the Supreme Court has held as under:

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"Section 149(2) of the Act no. doubt provided that the rules framed under the Police act of 1861 would continue to be in force after the Act came into force in so far as they were consistent with the Act but at the same time Section 147 of the Act authorised the Administrator (Lt. Governor of the Union Territory of Delhi) to make rules regarding recruitment to, and the pay, allowance and all other conditions of service of the members of the Delhi Police under clause (b) of Section 5.. It is not disputed that Rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 and the rules promulgated on December 31, 1980 deal with the identical subject namely, the rule of recruitment of Constable to the Delhi Police Service. Therefore, on the promulgation of the Rules on December 31, 1980 which covered the subject dealt with by rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 had the effect of repealing by necessary implication rules 12.14 and rule 12.15 of the Punjab Police Rules, 1934 had the effect of repealing by necessary implication rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 even though initially there was no express provision in the Rules to the effect that rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 stood repealed with effect from December 31, 1980. It is well settled that when a competent authority makes a new law which is totally inconsistent with the earlier law and that the two cannot stand together any longer it must be construed that the earlier law had been repealed by necessary implication by the later law. Applying the above test it has to be held in this case that rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 stood repealed with effect from December 31, 1980 and rule 32 of the Rules which was introduced by way of amendment on May 2, 1983 had not the effect reviving rule 12.14 and rule 12.15 of the Punjab Police Rules, 1934 and keeping them alive beyond December 31, 1980 upto May 1983".

"We have already held that Rule 8 read with Rule 10 and Rule 16 of the Delhi Rules have dealt with the very subject covered by Rule 16.2(1) and Rule 16.24 of the Punjab Rules respectively. In our opinion, the two set of rules cannot co-exist on the same subject matter. Following the aforesaid decision of the Supreme Court, we have no hesitation in holding that the provisions of Rule 16.2 and 16.24 of the Punjab Rules relied upon by the petitioners

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In fact after the Full Bench decision no further probe is required whether the applicant in this case is still governed by the provisions of Rule 12.3A of the Punjab Police Rules. The Delhi Police (Promotion and Confirmation) Rules 1980 have replaced the Punjab Police Rules and Rule 6 provides that promotion is to be earned only in the concerned cadre. The applicant belongs to technical cadre and so he can get promotion only in the technical cadre, as envisaged in Rule 16 of the Delhi Police (Promotion and Confirmation) Rules 1980. Rule 22 of the above rules have repealed the application of Punjab Police Rules relating to confirmation and promotion of the employee subject to the provisions contained in the proviso to sub-section (1) and (2) of Section 149 of the Delhi Police Act, 1978.

In view of the above facts and circumstances the applicant cannot claim his promotion to the

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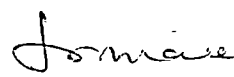
Executive side as Inspector invoking Rule 12.3A of the Punjab Police Rules.

The other reliefs claimed by the applicant are incidental to this promotion and since the promotion cannot be granted to the cadre of Inspector (Executive), those reliefs also though being barred by time cannot be granted to the applicant.

As regards the quashing of the order of reversion based on 13.6.1986, the applicant had been promoted immediately afterwards as per the Delhi Police (Promotion and Confirmation) Rules, 1980 when his name was brought in promotion list 'E' under Section 16 of the said rules. The applicant cannot therefore have any grievance on that account also. The application therefore, is devoid of merit and dismissed.

The applicant shall be free to make a representation to the respondents to give him benefit as has been given in Executive Cadre viz., SI Sumer Singh, SI Radhey Sham, SI Mahabir Singh, SI Raj Kumar and SI Ramesh Chandra Jain. The counsel for the respondents has conceded that the representation of the applicant shall be considered with open mind on the same lines as his batch mate Shri Ramesh Chandra Jain who was Shorthand Reporter was given benefit to Executive Cadre. Respondents shall dispose of such representations sympathetically keeping in view the case of the similarly situated Shorthand Reporters. A corrected copy of the Judgement be sent to the parties.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal