

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-2032/89

New Delhi this the 19th Day of August, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Acting Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri Chaman Singh,
S/o Sh. Bhillo Ram,
R/o 152, III Gate Poter Colony,
New Delhi.

Applicant

(By advocate Sh. Shyam Babu)

versus

1. Delhi Administration,
Delhi, through its Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. Addl. Commissioner of Police
(Administration),
Police Headquarters,
New Delhi.
3. Dy. Commissioner of Police,
(HQ-I), Police Headquarters,
I.P. Estate, New Delhi.
4. Deputy Commissioner of Police,
Provisioning & Lines,
Delhi.

Respondents

(By advocate Mrs. Avnish Ahlawat)

ORDER
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A).

The applicant is aggrieved by the orders dated 19.6.1989 and 22.9.1989 rejecting his request for being considered for promotion to the post of Assistant Sub-Inspector/MT (Operational) in Delhi Police on the ground that he has not completed 5 years in the feeder grade of HC/MT (Operational).

Appointed as Constable in Delhi Police on 18.6.1969, the applicant was promoted as Asstt. Wireless Operator(HC) on 24.2.1975 and was confirmed on 1.1.1981. On 21.2.1984, he was transferred to the M.T. Section where he joined on

29.2.1984. He was granted special pay of Rs.20/- On 25.1.1989, he was absorbed permanently in M.T. cadre. In May, 1989, he applied for the post of A.S.I.(MT) operational which required five years experience as Head Constable(MT). Even though he was working as Head Constable(MT) operational w.e.f. 29.2.1984 and was already confirmed as a Head Constable in Delhi Police w.e.f. 1.1.1981, the respondents rejected his application. He has requested for the following reliefs:-

- "(a) call for the records of the case and quash orders dated 19.6.1989(Annexure 'F') and the appellate order dated 22.9.1989 (Annexure 'E');
- (b) direct the respondents to hold the DPC immediately and consider the applicant for the post of ASI/MT (Operational) and promote him to that post from the date when the vacancy arose in the post with all consequential benefits, including monetary, seniority and promotion; and
- (c) pass such other or further order as may be deemed to be fit and proper in the circumstances of the case."

In the counter-affidavit filed on behalf of the respondents, it is averred that though the applicant was posted in M.T. Branch on public exigency with his consent, his cadre was never changed. The applicant was absorbed as HC/MT in only January, 1989. Thus in May 1989 he had not completed five years of regular service in the feeder grade to be eligible for promotion as ASI(MT).

On 6.11.1989, this Tribunal passed an interim order directing the respondents to make promotions to the posts of A.S.I.s. (MT) Operational in accordance with the Recruitment Rules on the subject. They were also directed to consider the case of the applicant for promotion

alongwith others but the decision in regard to the applicant was not be announced or any action taken thereon till the disposal of this application.

We have gone through the records of the case and heard the learned counsel for the parties. It is admitted that the applicant was a confirmed Head Constable of Delhi Police but had changed his cadre from Wireless Operator (HC) to MT Branch in 1984. Later, two vacancies of Head Constable (MT) were notified and he applied for that post. He was taken regularly in the cadre of Head Constable (MT) only w.e.f. 25.1.1989. Rule 17-A (VIII) of the Delhi Police (Recruitment & Appointment) Rules, 1986 provides that appointment to the post of A.S.I./MT will be only through promotion from amongst confirmed HC (MT Operational) with five years service in the grade or confirmed HC(Driver) with five years service. Rule 6 of the Delhi Police (Promotion and Confirmation) Rules, 1980 provides that " Unless otherwise provided in these or any other rules framed under the Delhi Police Act, 1978, each member of subordinate rank shall earn promotion in his/her cadre in accordance with the rules applicable to that cadre." The only correct interpretation of these rules would be that the seniority of the applicant in the MT cadre could only be reckoned from 9.11.1989 i.e. the date of his absorption in that cadre. He belonged to a different cadre before this date.

In view of the aforesaid considerations, the application fails and is hereby dismissed.

No costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)

/vv/

Member (A)

S.K. Dhaon
(S.K. Dhaon)

Acting Chairman