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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-211/89

Date of decision: 3.7.1992

Shri. Shri Chand

.... Applicant

Versus

Union of India & Ors.

.... Respondents

For the Applicant

.... Shri Shankar Raju, Advocate

For the Respondents

.... Smt. Avnish Ahlawat, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant, who is working as Inspector (Ministerial) in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:-

- (i) To direct the respondents to grant him notional promotion in the rank of Inspector from the year 1981 and to fix his seniority in that rank from the same year;
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- (ii) in the alternative, he has prayed that the respondents be directed to grant notional promotion to him in the rank of Inspector from the year 1984 and give him seniority from the year 1984;
- (iii) to award notional salary, pay and allowances and other consequential benefits; and
- (iv) to direct them to consider him for promotion to the post of A.C.P. in the D.P.C. to be constituted in February, 1989 and he be promoted as Assistant Commissioner of Police on the basis of his revised seniority as well as notional promotion.

2. There is no dispute regarding the facts of the case. The applicant was appointed as ASI (Ministerial) in 1964 and was confirmed as such in 1968. He was promoted as S.I. (Ministerial) in 1970 and was confirmed in the said post in 1975. Rule 17(iii) of the Delhi Police (Promotion and Confirmation) Rules as it stood prior to its amendment provided for a departmental written test of confirmed Sub-Inspectors (Ministerial) for admission of their names to Promotion List-F (Ministerial). The respondents conducted such a test in September, 1981 in which the applicant appeared. He did not obtain 60 per cent marks in the examination, which was the

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prescribed minimum percentage. Out of 53 Sub-Inspectors (Ministerial) who had appeared in the said test, only 2 had secured 60 per cent and above marks and were called for interview. They were promoted as Inspectors (Ministerial) w.e.f. 15.12.1981. As the applicant could not qualify in the written test, he was not called for interview by the D.P.C.

3. The respondents conducted a similar departmental test on December 24 and 26, 1985. Four Sub-Inspectors (Ministerial) including the applicant, appeared in the test, but none of them could qualify the same.

4. The applicant made a representation against the above decision and requested for re-evaluation of the answer-books on the apprehension that the same had not been evaluated properly. His request was not considered favourably by the respondents since there was no provision for re-evaluation of the answer-books. He was informed to the said effect by letter dated 17.1.1983. Thereafter, he filed a civil writ petition No. 619/83 in the Delhi High Court which was dismissed on 14.11.1983. The applicant filed SLP-428/84 in the Supreme Court which was disposed of by order dated 19.4.1984. The Supreme

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Court took note of the amendment to Rule 17 of the Delhi Police (Promotion & Confirmation) Rules, 1988, whereby the provision for departmental test was deleted from the rules. Shri G.D. Gupta, appearing on behalf of the Delhi Administration, made a statement that the applicant shall be eligible to appear at future examinations for inclusion in the Promotion List-F of the Inspectors. On the basis of this statement, the SLP was disposed of.

5. The learned counsel for the applicant submitted that after the rules were amended, there was no question of holding a departmental test. However, as the learned counsel for the Delhi Administration had made a statement that the applicant would be eligible to appear at future examinations for inclusion in the Promotion List-F, the respondents were not bound to hold such a test for the applicant. Despite several representations made by him, this was not done. Finally, the applicant submitted a memorial to the President which was not considered on the merits. In the memorial, the applicant had prayed for giving him retrospective promotion to the rank of Inspector in List-F from 1981.

6. The respondents have stated in their counter-affidavit that after the amendment of the rules, whereby

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written test for Promotion List-F was abolished, the question of the applicant appearing in the future written tests did not arise. His case was, however, considered by the D.P.C. constituted for the purpose and he was admitted to Promotion List-F (Ministerial) w.e.f. 15.1.1986 vide notification dated 28.8.1986. He was promoted to the rank of Inspector w.e.f. 12.2.1986 and was confirmed in the said rank w.e.f. 12.2.1988. The respondents have also stated that the conduct of the applicant was censured in 1965 and there were also adverse entries in his annual confidential reports for the period 16.12.1965 to 31.3.1966, 1.4.1966 to 31.3.1967, 1.4.1968 to 31.3.1969, and 31.10.1977 to 31.3.1978.

7. We have carefully gone through the records of the case and considered the rival contentions. We have also duly considered the ^{*}case law relied upon by the learned counsel for the applicant.

8. After the amendment of the Rules and dispensing with the departmental test as a condition for inclusion of the name of an Inspector in Promotion List-F, the respondents were not required to hold any departmental test, notwithstanding the statement made by the learned counsel for the Delhi Administration before the Supreme Court. The statement made by him should, therefore, be understood to mean that

Cases relied upon by the learned counsel for the Applicant: J.T. 1992 (2) S.C. 326; 1989 (9) A.T.C. 584; 1990 (1) ATLI, 385 (CAT).

the applicant's case for promotion would be considered in accordance with the rules. The rules prescribed for promotion to List -F provide for selection by the D.P.C. The respondents have stated in their counter-affidavit that the applicant was considered for admission to Promotion List-F (Ministerial), but the D.P.C. could recommend his promotion only w.e.f. 15.1.1986. The averment of applicant that he has an unblemished record, has been contradicted by the averments made by the respondents regarding the penalty of censure imposed on him in 1965 and the adverse remarks in the annual confidential reports, mentioned above. The applicant has stated that Inspector Rameshwar Dayal had been given seniority with effect from 1981 and he was also similarly situated as the applicant. According to the applicant, this amounts to discrimination. There is nothing on record to indicate the circumstances under which Shri Rameshwar Dayal was given ante-dated seniority w.e.f. 1981. The case of the applicant is distinguishable as he had moved the Delhi High Court and the Supreme Court.

9. In the light of the foregoing discussion, we are of the opinion that the applicant is not entitled to any relief sought by him in the present application. The application is, therefore, dismissed, leaving the parties to bear their respective costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal) 3/7/82
Administrative Member

P. K. Kartha
3/7/82
(P.K. Kartha)
Vice-Chairman(Judl.)