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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.2497 of 1989
O.A.No.2500 of 1989

New Delhi, this the 1st day of ^{Sept} ~~August~~, 1994.

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

O.A.No.2497 of 1989

Karan Singh
S/O Shri Shiv Lal,
r/o H.No.417, Mohalla Uddan,
Narela, Delhi-40.
working as A.S.I.(WO) in Delhi Police,
Delhi. Applicant.
(through Mr Shyam Babu, Advocate).

O.A.No.2500 of 1989

Shri Silak Ram
S/O Shri Sher Singh,
R/O House No.231, Ahata Kindara Police Colony,
P.S.Sadar Bazar, Delhi,
working as A.S.I.(WO) in Communication Branch
of Delhi. Applicant.
(through Mr Shyam Babu, Advocate).

vs.

1. Delhi Administration,
through its Chief Secretary,
5 Sham Nath Marg,
Delhi.
2. Commissioner of Police,
Police Headquarters,
I.P.Estate,
New Delhi.
3. Additional Commissioner of Police(Operations),
Police Headquarters,
I.P.Estate,
New Delhi.
4. Deputy Commissioner of Police(Communications),
Rajpur Road, Delhi.
5. Deputy Commissioner of Police(Headquarter-I),
Police Headquarters,
I.P.Estate,
New Delhi. Respondents.

(through Mr V.K.Rao (in both the O.As.))

Order

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

As the issues raised in these O.As are similar, these are being disposed of by a common judgment. Both the applicants challenge the orders dated 17.11.1988 by which the Deputy Commissioner

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of Police has promoted their juniors as Sub Inspector, Supervisor (operation) w.e.f. 16.11.1988 without considering the case of the applicants, who are senior to many of them. Both of them were promoted as A.S.I.'s on adhoc basis but were reverted to the substantive rank of Head Constable(AWO) w.e.f. 20.11.1986. However, they claim to have been promoted as A.S.I.(WO) w.e.f. 11.11.1986. Thus, there was no break in service of the applicant as A.S.I.(W.O.). S/Shri Silak Ram and Karan Singh qualified the Grade-II examination on 3.4.1988 and 16.7.1988 respectively. They are aggrieved that their juniors have been promoted as Sub Inspector Supervisor (operational) with effect from 16.11.1988 ignoring their claims by impugned orders dated 17.11.1988 and 28.11.1988. They claim that Rule 19(1) of the Delhi Police (Promotion and Confirmation) Rules, 1980 does not authorise the respondents to promote ineligible persons. The relief sought are ;

- a) a direction to the respondents to promote the applicants as Sub-Inspector (Supervisor (Operational)) w.e.f. 17.11.1988 when their juniors were promoted;
- b) declare Rule 19(1) of Delhi Police (Promotion and Confirmation) Rules, 1980 as ultra vires and unconstitutional and (c) grant all consequential benefits to the applicants.

2. In the counter filed by the respondents, it is denied that both the applicants were confirmed as Head Constable as A.S.I. (Wireless Operator). They were promoted to this rank purely on temporary basis with a clear direction that they shall not be entitled to claim any right for regular promotion

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or seniority or for appointment to such or any other equivalent post and shall be liable for reversion without notice at any time. They were given a number of chances to officer in Grade-II examination but Karan Singh could pass this examination only on 16.10.1987 and Salik Ram on 13.4.1988. Their status was up-graded notionally at pay stage after completion of 3 years service as A.S.I.(W.O.) to S.I.(W.O.) by virtue of their pay stage in the same pay scale of ASI(WO). As per old rules PRR 12.3(b) and also as per new rules 17.B(ii) notified by the Delhi Administration, on 31.7.1986, the feeder post for regular promotion to the rank of SI Supervisor(operation) is confirmed ASI(Wireless Operator) with grade-I Technical qualification with 6 years regular service in the grade. Thus, they were never promoted to the rank of S.I. Supervisor(Operational) on regular basis. Their status was only ^{of an} ASI upgraded Wireless(Operation). Telephone Operators are also eligible for promotion to the rank of A.S.I.(Wireless Operators) after 8 years of service, subject to the condition that the incumbent shall pass Grade-II Wireless Operators Course conducted/approved by the by the DCPW within a period of three years from the date of promotion. If ^{by} this is not done he is liable to be reverted to his substantive rank of Head Constable, Assistant Wireless Operator. Thus the applicants did not have the Grade-II technical qualifications when the D.P.C. was held on 11.11.1986. Those in the first list were found eligible and were regularly appointed. Another list was prepared of those who were not eligible at that time but were given an opportunity of becoming eligible for regularisation after passing the prescribed test within a period of

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three years. As the applicants were in the second list they cannot claim seniority over those who were regularly appointed.

3. We have gone through the records and heard the learned counsel for the parties. A perusal of Rule 17-B(iii) (Ann: R-2) shows in column No.12, the following eligibility conditions for promotion:

.. "From amongst confirmed H.Cs (AWOs) IPOs with 5 years service in the grade who have passed Grade IInd proficiency Test for Wireless Operators conducted/Approved by the Dte. of Co-ordination Police Wireless.

Or

From amongst Telephone Exchange Operators with 5 years service in the Grade and having passed Grade.IIIrd and thereafter Grade-IInd Proficiency Test of Wireless Operator Course conducted/approved by D.C.P.W.,

Failing which from amongst confirmed H.Cs (AWO/TPCs) and Telephone Exchange Operators having passed Grade.III course, conducted by DCP/Conn. Delhi with 8 Yrs. service in the grade, subject by the condition that they shall pass Grade-II (Wireless Operators) Course conducted/ approved by DCPW, within a period of three years from the date of promotion otherwise they shall be reverted to their substantive rank of Head Constable.

Note:

Those who are Grade-III and already promoted to the rank of ASI (Wireless Operator), they shall pass the Grade-II Course within three years from the date of notification of the rules, otherwise they shall be reverted to their substantive rank."

It is clear that those who have not passed the Grade-II test, are to be considered only when vacancies are left over even after adjusting



those who have passed this test. The second category are liable to be reverted to the substantive rank of Head Constable if they did not pass this test within a period of three years. This issue has already been considered by another Bench of this Tribunal of which one of us (Hon'ble Mr. Justice S.K. Dhaon) was a member, in O.A.No.291/87 decided on 30.4.1993. It was held that merely by virtue of having been placed in second category, the applicant cannot claim seniority on the basis of his ranking in the feeder grade over those who were kept in the first category. The applicants cannot derive any benefit from the provisions given in the note appended to Column No.12 of the said Rules as their earlier promotion to the rank of ASI was purely adhoc. It is not their contention that they had earlier been cleared by a duly constituted D.P.C. for such promotion.

4. We find no merit in these applications which are dismissed, but without any order as to costs.

B.N. Dhundiyal
(B.N.Dhundiyal)
Member (A)

S.K. Dhaon
(S.K.Dhaon)
Acting Chairman

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