

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 2509/89

New Delhi this the 19th Day of May 1994

HON'BLE MR. J.P. SHARMA, MEMBER (J)

HON'BLE MR. B.K. SINGH, MEMBER (A)

Shri Bal Ram,
son of Shri Sham Lal,
Resident of Village Jhojhu Khurd,
P.O. Jhojhu Kalan
District Bhiwani, Haryana

... Applicant

(By Advocate Shri A.S. Grewal)

Vs.

1. Lt. Governor of Delhi
through Chief Secretary,
Delhi Administration,
Delhi.
2. Commissioner of Police,
Delhi Police Headquarters,
MSO Building,
IP Estate,
New Delhi.
3. D.C.P. Headquarters-I,
MSO Building,
I.P. Estate,
New Delhi-110 002

... Respondents

(By Mrs. Atnish Ahlawat)

O R D E R

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

The applicant was compulsorily retired as A.S.I. from Delhi Police with effect from 22.5.1988. In this application filed in December 1989, the applicant assailed the order dated 27.10.1988 by which the representation of the applicant was rejected on the ground that since a departmental enquiry is still pending against him and he has now been given premature retirement he is not entitled for any further consequential benefits. The

....2.

applicant claimed for the grant of the reliefs that he be promoted as Sub Inspector w.e.from 5.5.1977 i.e. the date from which his next junior A.S.I. Yug Raj Singh was so promoted and confirmed in his appointment with effect from 30.10.1980 and he be paid pay and allowances of the rank of Sub Inspector with effect from 5.5.1977.

2. The facts of the case are that the applicant had earlier filed Civil Writ No. 2657/81 in the Delhi High Court which was transferred to Tribunal and Registered T-766/85 and was decided by the Tribunal on 21.10.1987. In the aforesaid judgement, the applicant assailed his dismissal from service by the order dated 31.1.1977 and the appeal against the same was rejected on 18.9.1978. The revision petition was also rejected by the order dated 27.12.1978. The Tribunal quashed that order of punishment and directed the respondents to reinstate the applicant in service giving him all the consequential benefits i.e. arrears of salary etc. The order will not debar any action which the respondents may like to take against him under law. The grievance of the applicant is that he has not been given his promotion in the rank of Sub Inspector (Executive) and was compulsorily retired from service with effect from 22.5.1988. The respondents contested the application and denied the grant of the relief as prayed for. It is stated that the judgement dated 21.10.1987 directed for payment of arrears of salary. In compliance with the aforesaid judgement a supernumerary post for the period from 17.4.1974 to 19.11.1984 was created and the applicant was declared confirmed as an ASI (Executive) with effect from 17.4.1974 vide notification dated 8.2.1988. His case for promotion to higher rank was also started to be processed in the right perspective. In the meantime orders of the departmental enquiry

-: 3 :-

were issued against the applicant on 3.3.1988 which was held up later on vide order dated 5.9.1988. Since in the meanwhile the applicant was compulsorily retired in the public interest in exercise of the power conferred by Rule 56(j) of Fundamental Rights by the order dated 22.8.1988. Since a departmental enquiry was pending against the applicant and he also ceased to be a member of the force, his request for promotion to higher rank and thereafter confirmation as such was not acceded to and the applicant was informed accordingly.

3. We have heard the learned counsel of the parties at length and perused the rejoinder filed by the applicant. The applicant has not denied about the initiation of the departmental enquiry against him and also the fact that he has since been compulsorily retired. The applicant has not assailed the order of his premature retirement under FR 56(j). The applicant, therefore, during the period of pendency of the disciplinary enquiry could not get higher promotion and was given the due promotion to the post of ASI in pursuance of the judgement dated 21.10.1987.


4. If the applicant at any time felt that in the judgement dated 21.10.1987 there was also a direction for giving promotion to the applicant during the period when he was not performing any duty having suffered an order of dismissal from service, he should have filed the CCP or sought a review of the judgement for being granted the relief of promotion during all these years from 1974 to 1984 when he was out of service. In face the applicant was ordered to be reinstated by the judgement dated 21.10.1987, with a liberty to the respondents to take action against

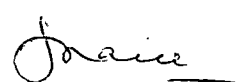
...4.

9

the applicant according to lay on the alleged mis-conduct for which he was dismissed from service. The transfer application was allowed not on merit but because the Enquiry Officer was held to be bias and thereby a liberty was given to the respondents to take action against the applicant under law. Thus, during the pendency of the departmental proceedings the applicant has been compulsorily retired. The applicant cannot be granted any promotion. He ^{was} is facing a departmental enquiry.

5. The application is, therefore, devoid of merit and is dismissed leaving the parties to bear their own costs.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal