

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 527/89

New Delhi this the 8th day of March, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri S.R. Adige, Member(A).

Siri Parkash,
S/o Shri Budh Singh,
R/o Qr.No.214, Ashok Vihar,
Police Colony,
Delhi. ...Petitioner.

By Advocate Shri A.K. Bhattacharya.

Versus

1. Deputy Commissioner of Police,
Headquarters(I),
Delhi.
2. The Commissioner of Police, Delhi
New Delhi.
3. Delhi Administrastion through
Secretary,
New Delhi.

...Respondents.

By Advocate Shri Jagdish Vats.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The petitioner was working as Assistant Sub Inspector when he was kept under suspension in the year 1982 pending a criminal case for offences under Sec.91 and other provisions of the Delhi Police Act. He was convicted and sentenced to a fine of Rs.200/- by order dated 25.5.1983. The order of suspension was revoked by order dated 27.4.1984. A disciplinary inquiry was also held against the petitioner which resulted in an order being passed on 21.2.1985 by the Deputy Commissioner of Police imposing the penalty of stoppage of two increments for a period of one year temporarily.

So far as the period of suspension is concerned, it was treated as leave of kind due.

2. In this application, the petitioner prays that his case for promotion to the cadre of Sub-Inspectors should be considered when his juniors were promoted in the year 1985 and then again in the year 1988.

3. The respondents have taken the stand that the case of the petitioner was duly considered on both the occasions and the DPC found him unfit and unsuitable. They, therefore, maintained that the petitioner cannot claim any relief, his case having been duly considered.

4. The right of the petitioner is for consideration of his claim for promotion. He has no right to promotion. Whether or not he is fit and suitable for promotion, it is for the Departmental Promotion Committee to examine suitability for promotion. The original proceedings of the DPC were placed by the learned counsel for the respondents before us for our perusal. We find from the proceedings of the DPC that in the year 1985 the case of the petitioner was considered and the DPC found him unfit and unsuitable. We also saw the proceedings of the DPC held in the year 1988. The case of the petitioner was again duly considered and he was not found fit and suitable. We are, therefore, inclined to take the view that there has been due consideration of the case of the petitioner for promotion on both the occasions. However, it was

maintained by the learned counsel for the petitioner that it is not right on the part of the authorities to take into account the penalty of stoppage of two increments imposed on the petitioner on 21.2.1985 to deny him promotion when his juniors were promoted in the years 1985 and 1988. It is urged that the offence was committed sometime in the year 1982 for which he was duly convicted on 25.5.1983. He submitted that it is in respect of the same conduct of the petitioner that he had been/ guilty departmentally and imposed the penalty of stoppage of two increments by order dated 21.2.1985. As the said punishment is based on the same conduct which resulted in petitioner's conviction, it is urged that it is not right on the part of the disciplinary authority to impose the penalty of stoppage of two increments. It is not possible to accede to this contention. The order imposing the penalty of stoppage of two increments has not been challenged in this case. That order has now become final. However, we find from the proceedings of the DPC that in accordance with the practice followed, the previous five years records are taken into account. The years 1983 to 1988 were, therefore, relevant years for consideration. If, having regard to the punishment imposed in the disciplinary proceedings he was not found suitable as he did not secure good grade during the two years when the penalty was in force, he cannot make a grievance about the same. What we are concerned in this case is as to whether there has been just and proper consideration. We are satisfied that there has not been improper or unjust consideration. We, therefore, see no good ground

to interfere. This application, therefore, fails and is dismissed. No costs.

Adige
(S.R. ADIGE)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN

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