

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. Nos- OA 988/89 & OA 1593/88 Date of decision: 5.9.1990.

(1) OA 988/89

Shri Prithvi Singh ...Applicant

Vs.

Union of India & Others ...Respondents

(2) OA 1593/88

Shri Gyatri Parkash ...Applicant

Vs.

Union of India & Others ...Respondents

For the Applicants in (1) and (2) ...Shri Mukul Talwar, Counsel

For the Respondents in (1) and (2) ...Shri M.M. Sudan, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. GHAKRAVORTY, 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? *No*

JUDGMENT

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

The applicants in these two applications are working as Sub Inspectors in the Delhi Police. As common questions of law have been raised in these applications, it is proposed to deal with the same in a common judgment.

2. The applicants were appointed as Sub Inspectors in 1969 by direct recruitment. Their batch-mates were confirmed on 22.5.1974 but the applicants were not confirmed along with them.

They have, therefore, prayed that Rule 12(2)(3) of the Punjab Police Rules 1934 and Rule 22 of the Delhi Police (Appointment & Recruitment) Rules, 1980 which provide that the seniority of Sub Inspectors should be determined from the dates of their confirmation and not the dates of appointment, be declared void and that the Tribunal should pass an order that after assigning the due seniority to the applicants above his next below junior, they should be considered for further promotions as Inspector.

3. The applicants have alleged that several persons junior to them having worse ~~service~~ records had been confirmed from the due date (vide pages 21 to 23 of the paper book in OA 988/89 and pages 11 to 14 of the paper book in OA 1593/88).

4. The applicant in OA 988/89 was not confirmed along with his batchmates due to the pendency of a departmental enquiry against him. The departmental proceedings were, however, dropped on 22.11.1974. The applicant in OA 1593/88 was suspended on 31.7.1975 and departmental proceedings were initiated against him for an incident which took place on 29.6.1975. In pursuance of this enquiry, he was punished with temporary forfeiture of three years of approved service. He was confirmed on 2.4.1979 but with effect from 3.7.1975.

5. The respondents have not controverted the version of the applicants that at least some of the juniors of the applicants having worse service records had been confirmed from the due date.

(a)

6. We have carefully gone through the records of the case and have heard the rival contentions. The applicants have relied upon the decision of this Tribunal dated 7.1.1987 in the applications filed by S/Shri Narendra Kumar and Krishan Kumar (OA Nos. 302/86 and 392/86) and judgment dated 27.8.1987 in the case of Devender Kumar Sharma (OA 96/86). The facts of the cases of S/Shri Narendra Kumar and Krishan Kumar were more or less similar. They had also not been confirmed with effect from the due date like their batchmates on the ground that some enquiry was pending against them. They had also alleged that some of their juniors whose conduct was also under enquiry had been confirmed from the due date. The Tribunal held that S/Shri Narendra Kumar and Krishan Kumar will be deemed to have been confirmed with effect from 22.5.1974 as Sub Inspector and that the seniority list of Sub Inspectors shall be rearranged accordingly. It was also directed that their further promotion shall be considered on the basis of the seniority list so arranged.

7. The ratio in Narendra Kumar's case and Krishan Kumar's case was followed in the judgment of the Tribunal in the case of Devender Kumar. It was also followed in another batch of cases decided on 17.11.1989 (OA 1046/86 - Mohan Lal Vs. Delhi Administration and connected matters) to which one of us (P.K. Kartha) was a party.

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8. The learned counsel of the respondents have contended that the applications are barred by limitation. We are not impressed by this contention. In our opinion, the aforesaid decisions gave the applicants a fresh cause of action as they were also similarly situated. In this context, we reiterate the observations contained in our judgment dated 17.11.1989 in Mohan Lal's case, mentioned above.

9. In the conspectus of the facts and circumstances of the cases before us, we direct the respondents to review and reconsider the confirmation of the applicants in OA 988/89 and OA 1593/88. In case their batchmates having more or less similar records prior to confirmation have been confirmed with effect from 22.5.1974, the applicants should also be given the benefit of confirmation as Sub Inspectors from the said date. The seniority list of Sub Inspectors should be rearranged accordingly and further promotion shall be considered on the basis of the seniority list so revised. The further promotion of the applicants shall be considered on the basis of the revised seniority list and if they are found suitable for promotion, they should be given promotion as Inspectors from the date their juniors were so promoted. The respondents shall comply with the above directions within a period of 3 months from the date of receipt of this order. The applicants would be entitled to all consequential

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benefits.

There will be no order as to costs.

Let a copy of this order be placed in OA 988/89 and
OA 1593/88.

Dechabandhu
(D.K. CHAKRAVORTY)
MEMBER (A) 5/9/890

Amrit
5/9/90
(P.K. KARTHA)
VICE CHAIRMAN (J)