

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1562/88
~~FAA No.~~

199

DATE OF DECISION 18.3.1991.

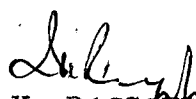
<u>Shri Maha Singh</u>	Petitioner
<u>Shri N.S. Bhatnagar</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Ors.</u>	Respondent
<u>Shri M.C. Garg</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Shri Mahleshwar Nath, Vice-Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? —
2. To be referred to the Reporter or not? —
3. Whether their Lordships wish to see the fair copy of the Judgement? —
4. Whether it needs to be circulated to other Benches of the Tribunal? —


 (I.K. RASGOTRA)
 MEMBER (A)
 18.3.91.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

O.A.No.1562/1988

DATE OF DECISION 18.3.1991

SHRI MAHA SINGH

.... APPLICANT

VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

C O R A M

SHRI KAMLESHWAR NATH, HON'BLE VICE-CHAIRMAN

SHRI I.K.RASGOTRA, HON'BLE MEMBER (A)

FOR THE APPLICANT

SHRI N.S.BHATNAGAR

FOR THE RESPONDENTS

SHRI M.C.GARG

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

J U D G E M E N T

DELIVERED BY JUSTICE SHRI KAMLESHWAR NATH,
HON'BLE VICE-CHAIRMAN

This application under Section 19 of the Administrative Tribunals Act, 1985 is for bringing the name of the applicant on promotion list-C (executive) of Constables for promotion as Head-constable, and also for promotion as such.



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2. The application is not quite well drafted. Even so, the broad features are that the applicant who is a matriculate, was enrolled as Constable for Delhi Police on 20-12-1955. His grievance is that a large number of Constables who are junior to him were given Selection Grade in 1982 and 1983 and were brought on promotion list-C (Executive) in the year 1984-1985 but the applicant was ignored. It is said that lastly in November, 1987 and January, 1988 a Board consisting of Shri Kartar Singh Additional Commissioner of Police, B.S. Bhola and Shri A.K. Khan, Deputy Commissioners of Police was constituted to consider the cases of constables for admission to the promotion list 'C' (Executive). According to the applicant this time a new criteria of holding interviews of eligible candidates was created but when the applicant was interviewed in December, 1987 only Shri B.S. Bhola and Shri A.K. Khan were present, and Shri Kartar Singh was not present.

3. As a result of this selection process 750 constables were admitted to the list (Annexure - A) published on 1984-85 including several constables junior to the applicant who entered had the service in 1957, 1958 and 1959, but the applicant was not included. His representation against non inclusion was rejected by order dated 8-6-1988 (Annexure - B) with

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the observation that he, and seven other constables
“could not make the grade in the final selection
hence their names could not be brought on the list.”
The applicant's case is that the post of Head constable
is not a selection post but is regulated by seniority
subject to fitness and that criterion has been violated
in preparing the list.

4. In the counter it is stated that the applicant
was considered for promotion list 'C' (Executive)
by the D.P.C. in the year 1987-1988 alongwith other
eligible constables but since he could not make the
grade his name was not admitted on the list. It was
denied that any selection grade was given to constable
junior to the applicant and ^{added} that the selection grade was
^{or} granted only to those who had been confirmed on or before
15-11-1962 and were enlisted upto 22-2-1955 whereas
the applicant was enlisted on 20-12-1955.

5. It was pointed out that the procedure of promotion
is contained in rule 14 of the Delhi Police (Promotion
and confirmation) Rules, 1980 which provides that list 'C'
was to be constituted of those unqualified constables
who for reasons of their good record, long service and

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good health were considered suitable for promotion to the rank of Head constable and that Delhi Police Committee could select suitable ^{constables} from that list, on the basis of merit drawn on evaluation system based on service record, seniority, annual confidential report and interview. The rule went on to say that 20% of the vacancies in the rank of the Head constables were to be filled from list 'C' which were subsequently amended to 33%. It was lastly ^{said that} in the list finally framed names only of those constable were brought who had obtained 77 marks and above whereas the applicant has secured only 73 marks and therefore he could not be included therein.

6. The applicant has filed a rejoinder.

7. We have heard the learned counsel for both the parties and have gone through the records. The question of selection grade to constables is not material for the purpose of this case. The only material point for the case is whether the selection has been made in accordance with the applicable rule.

8. It is not disputed that the relevant rule is Rule 14 of the Delhi Police (Promotion and Confirmation) Rules, 1980 as set out in para 6(4) & (5) of the counter. The

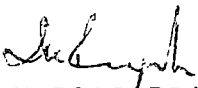
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evaluation system is not set out in the counter but the learned counsel for the applicant has placed on record a photostat copy of standing order No.91 of 1985 which deals with the promotion of constable to the rank of Head constable. Rule 14 says that the list 'C' (Executive) was to be framed on the basis of merit drawn on the evaluation system based on service record, seniority, annual confidential report and interview. Para 7 of the standing order deals with list 'C'. This para requires the departmental promotion committee to be constituted which must scrutinize the service record of the eligible candidates and hold interview in accordance with the procedure prescribed at para³/(III)(C). Para³/(III)(C) allocates 80 marks for service record and seniority in the manner detailed therein. The marks are allocated for length of service absence of punishment, commendatory entry A.C.Rs. professional courses. The learned counsel for the respondents produced before us the marks sheet which contain tabulated figure of marks given to the candidates for service record and for interview. It is not shown that the test conducted by authorities was in contravention of these provisions. The note sheets of the process of interview do not show that any of the members of interview board was absent.

[Handwritten signature]


9. It is true that the post of Head constable was not a selection post in the year 1987-1988 but at the same time it was not to be filled entirely by seniority. The criterion is seniority subject to fitness. Fitness is determined by selection test. It is this test which is conducted under these rules. A candidate has therefore to satisfy the norms of the test before he can be held to be fit. The number of persons to be taken on a list is determined by the competent authority on the basis of the number of vacancies falling within the prescribed quota of 20% and if the competent authority in this case chose to bring on list only those persons who had secured 77 or more marks accordingly, they cannot be said to have committed any illegality in holding the selection. Since the applicant secured only 73 marks there is no bar in the refusal of the authorities to place him on list 'C' (Executive). That being so he could not be considered for the promotion as Head constable. The application should fail.

10. The application is dismissed leaving the parties to bear their own costs.


I.K. RASGOTRA,
MEMBER (A)


KAMLESHWAR NATH,
VICE-CHAIRMAN

Pronounced by me in the open court on 18.3.1991.


(I.K. Rasgotra)
Member (A)