

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 594/86                      198  
T.A. No.

DATE OF DECISION 20.3.1987

Shri Sahib Ram                      ~~Petitioner~~ Applicant

Shri H.R. Bhutani                      Advocate for the Petitioner(s)

Versus

Commissioner of Police & Ors.                      Respondent s

Mrs. Avnish Ahlawat                      Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. BIRBAL NATH, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H.P. BAGCHI, JUDICIAL MEMBER

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 to be circulated to all the Benches.

(JUDGMENT OF THE BENCH DELIVERED BY MR. BIRBAL NATH)

JUDGMENT.

This is an application filed under Section 19 of the  
Administrative Tribunals Act, 1985 before the Tribunal by Shri

Sahib Ram, Sub-Inspector of Police and Senior Accident Service Technician, seeking the following reliefs:-

- i) He is being paid pay and allowances in the scale of Rs. 380-12-500-EB-15-560 with effect from 4.10.1980 whereas, he is entitled to receive these pay and allowances with effect from 12.10.1976, the date from which he has been working against the post of Senior Accident Service Technician, and
- ii) to quash the adverse remarks as entered in the applicant's Confidential Report from 1.4.1980 to 30.9.1980.

2. The relevant facts leading to the application are that the applicant had joined the Delhi Police in 1962 as a constable and he was promoted to the rank of Head Constable (Clerical Cadre) on 4.1.1967 and thereafter, to the rank of Assistant Sub-Inspector (Ministerial) on 11.6.1974. While working as A.S.I., he was prosecuted in a criminal case under Section 457/354 registered at Police Station Najafgarh in 1977 but was discharged on 17.3.1978 by the Metropolitan Magistrate. He was placed under suspension when the case was registered against him and was sought to be departmentally proceeded against. The proceedings were, however, quashed by the Delhi High Court in civil writ petition No. 284/80 on 3.8.1981 and ultimately, the period of his suspension was treated as spent on duty. He was placed under suspension during the criminal proceedings on 19th July 1977 but ultimately, he was reinstated. Due to these proceedings and litigation, the respondents were actuated by malafides against him. It was averred that he was working as Senior Accident Service Technician with effect from 12.10-1976 but he was denied pay and allowances in the scale of Rs. 380-12-500-EB-15-560 despite various representations. This post was circulated vide Office Order dated 28.2.1976 issued by

6

the Inspector-General of Police, Delhi, and the applicant was appointed temporarily against one of the 12 posts sanctioned for the Ambulance Services for the Road Accidents in the Union Territory of Delhi. Before the appointment, he had qualified eight weeks' training course at Maulana Azad Medical College and Association, Irwin Hospital, New Delhi. He was posted vide Memorandum No. 3387781/Est. dated 4.10.1976 issued by the Assistant Inspector-General of Police, Delhi (Annexure 'C') The budget allocations for this post were made vide Order No. 12528-48/Estt. dated 28.2.1976. However, he was formally appointed as Senior Accident Service Technician with effect from 4.10.1980 vide Order No. 2941/Est. dated 4.10.1980 issued by the Commissioner of Police, Delhi (Annexure 'E').

3. In their affidavit in opposition, the respondent, the Commissioner of Police, Delhi, admitted that the Ministry of Health and Family Welfare, New Delhi, vide their letter No. Z.19014/22/75-CGHS dated 13.11.1975, had conveyed sanction for the creation of 12 posts of Senior Accident Service Technician (A.S.I.) during the year 1975. Since the Recruitment Rules were not finalised at that time, volunteers were called <sup>for</sup> and they were put to eight week's course of training at the Lok Nayak Jai Parkash Hospital (Irwin Hospital). The training took place from 25.1.1976 to 17.7.1976. Those who had successfully completed the training were deployed temporarily to work as Senior Accident Service Technician (A.S.I.) with the direction that they will remain allocated to District/Unit in the same rank where they were already allocated, for the purpose of drawal of pay and their cases

7

for regular appointment as Senior Accident Service Technician will be considered on the finalisation of the Recruitment Rules. It was admitted that the applicant was deployed to work as a Senior Accident Service Technician (A.S.I.) with effect from 4.10.1976. He was regularly appointed after selection by the D.P.C. with effect from 4.10.1980. This selection was made in pursuance of the Recruitment Rules for the post of Senior Accident Service Technician (A.S.I.) as notified by the Delhi Administration on 22.8.1979. They denied the allegation made by the applicant that he was departmentally proceeded with malafide intention and the officers were bent upon demoralising him.

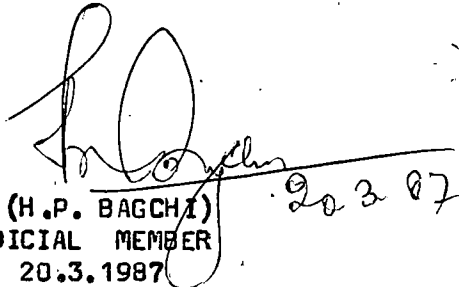
4. We have gone through the pleadings and given careful thought to the arguments advanced on behalf of the parties. It is clear that the post of Senior Accident Service Technician was created in 1975. The applicant, after proper training, was temporarily deployed to work as Accident Service Technician with effect from 12.10.1976. It is true that he was appointed temporarily since the Recruitment Rules for the aforesaid post had not been ~~properly~~ approved and notified by the Delhi Administration. These rules were approved by the Delhi Administration on 22.8.1979 and the applicant was regularly appointed as Senior Accident Service Technician (A.S.I.) with effect from 4.10.1980. However, the fact remains that the post was sanctioned in 1975 and the applicant had been working against the post, after prescribed training, though in a temporary capacity, since 12.10.1976.

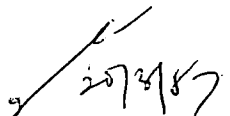
He was duly selected and appointed after the notification of the Recruitment Rules in October, 1980. There is no justification for not giving the applicant and other of his colleagues who might have been similarly appointed the pay and allowances in the scale of Rs. 380-12-500-EB-15-560 when he had been performing the duties of the Senior Accident Service Technician after proper training and screening by the competent authorities. The belated approval of the Recruitment Rules and the notification cannot deprive the applicant of the benefits of the pay and allowances in the scale of Rs. 380-12-500-EB-15-560 because he had been working against that post in that scale from 12.10.1976. Once the applicant had been screened and trained for the job and he was deployed on the job, whether in a temporary capacity or otherwise, he is deemed to be entitled to the benefit of pay and allowances in the scale attached to that post. It is now well established <sup>in</sup> at law that an employee cannot be deprived of his pay and allowances for any reason which may be beyond the pale of law. Once the applicant had been appointed as Senior Accident Service Technician against a duly sanctioned post, he had acquired a legal right to the pay and allowances <sup>as sanctioned</sup> and he cannot be deprived of the same on the ground of any delay on the part of the respondents.

5. In view of the foregoing, we allow the application to the extent that the applicant will be entitled to the pay and allowances in the scale of Rs. 380-12-500-EB-15-560 w.e.f. 12.10.1976, the date from which he had been working against the duly sanctioned post.

6. There will be no order as to the second relief regarding expunction of adverse remarks because no case has been made out in the application nor it was pressed during the course of arguments at the bar.

There will be no order as to costs.

  
(H.P. BAGCHI)  
JUDICIAL MEMBER  
20.3.1987

  
(BIRBAL NATH)  
ADMINISTRATIVE MEMBER  
20.3.1987