

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

10

O.A. No. 886/86
T.A. No.

199

DATE OF DECISION 13.12.1991

Shri Amrit Lal

Petitioner Applicant

Shri S. K. Dubey

Advocate for the Petitioner(s) Applicant

Versus

Union of India & Others

Respondent(s)

Shri G. N. Trisal

Advocate for the Respondent(s)

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The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B. N. Dhaundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

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

The applicant, who is working as Sub-Inspector in the Delhi Police, has sought for a declaration for his confirmation as Head Constable with effect from 15.9.1960 in terms of P.P. R.13.18 over and above his juniors, Head Constables, Attar Singh and Diwan Singh.

2. The applicant has stated that he was promoted to the rank of Head Constable with effect from 15.9.1958 and was entitled to be confirmed in his appointment with effect from 15.9.1960 after the expiry of two years' probationary period in terms of P.P.R.13.18, but his confirmation was

inordinately delayed for several years. Constables Attar Singh and Diwan Singh were promoted as Head Constables with effect from 23.3.1959 but they were confirmed with effect from 23.3.1961 in terms of P.P.R. 13.18. The applicant was promoted as A.S.I. (Ex.) w.e.f. 6.5.1970 whereas Attar Singh and Diwan Singh were promoted as ASIs w.e.f. 26.4.1979. However, by order dated 2.9.1985, they were promoted as ASIs w.e.f. 5.4.1968. The applicant was confirmed as A.S.I. w.e.f. 12.4.1974, promoted as S.I. w.e.f. 10.5.1974 and confirmed as such w.e.f. 4.8.1977, but Attar Singh and Diwan Singh were given promotion as SIs w.e.f. 21.4.1972 and confirmation w.e.f. 10.3.1976.

3. When he came to know about his supersession, the applicant submitted a representation to the Additional Commissioner of Police on 18.2.1986 which was rejected on 19.3.1986. Thereafter, he represented to the Commissioner of Police on 7.4.1986, which was also rejected on 15.6.1986. He filed the present application on 20.10.1986.

4. The applicant has stated that Attar Singh and Diwan Singh were given promotion and confirmation in pursuance of judgement dated 21.9.1984 of the Delhi High Court in C.W. No. 1185/75 - Diwan Singh Vs. Union of India. He has contended that before assigning them seniority, his seniority should have been revised upward.

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5. The respondents have not controverted the above mentioned factual position. The learned counsel for the respondents, however, contended that the application is barred by limitation as the cause of action had arisen in 1967 and the applicant did not move an appropriate legal forum to seek relief till 1986.

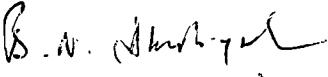
6. We have gone through the records of the case and have considered the rival contentions. The plea of limitation raised by the respondents is not tenable as the applicant is aggrieved by the antedating and refixation of seniority of Attar Singh and Dewan Singh, who were his juniors. He filed the present application after exhausting his remedies by way of representation.

7. On the merits, the applicant has a good case. The respondents should have, on their own, revised and refixed the seniority of the applicant consequent upon the revision and refixation of the seniority of his juniors. In a *catena* of decisions, the Supreme Court, the High Courts and this Tribunal have held that persons who are otherwise similarly situated, would be entitled to similar treatment and the fact that they have not approached the Court, should not place them at a disadvantage (vide John Lucas Vs. Additional Mechanical Engineer, 1987 (3) A.T.C. 328; Dharam Pal & Others Vs. Union of India & Others, 1988 (6) A.T.C. 396 at 402; A.K. Khanna Vs. Union of India & Others

A.T.R. 1988 (2) C.A.T. 518; and Prof. C.D. Tase Vs.

University of Bombay, J.T. 1989 (1) S.C. 364).

8. In the light of the foregoing, we allow the application with the direction that the respondents shall extend the benefit of the judgement dated 21.9.1984 of the Delhi High Court in C.W.1185/75 - Diwan Singh Vs. Union of India, to the applicant in the present case. We hold that the applicant is entitled to be confirmed in the same manner as Attar Singh and Diwan Singh after completion of 2 years' service with effect from 5.9.1960. He would also be entitled to notional promotion in higher posts on that basis from the due dates, ranking above Attar Singh and Diwan Singh. The respondents shall implement the above directions within a period of three months from the date of communication of this order. There will be no order as to costs.


(B.N. Dhoundiyal) 13/12/91
Administrative Member


(P.K. Kartha) 13/12/91
Vice-Chairman (Judl.)