

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.291 of 1987. Date of Decision 30.4.93

Narendra UpadhyayApplicant.

Versus

Commissioner of Police, Delhi Police
Head Quarters, I.P.Estate, New Delhi &
othersRespondents.

CORAM

The Hon'ble Mr.Justice S.K.DHAON, VICE-CHAIRMAN,
The Hon'ble Mr.S.R.ADIGE, MEMBER(A)

For the applicant: Shri Mukul Talwar, Counsel.

For the respondents: Shri B.R.Parashar, Counsel.

JUDGMENT

(By Hon'ble S.R.Adige, Member(A) .)

The Principal prayer of the applicant Shri Narendra Upadhyay, Sub-Inspector, Delhi Police is that his conditional appointment as S.I.(Supervisor Technician) with effect from 30.12.86, should be on the basis of seniority and he should be placed below Shri Hem Raj and above Shri Subhash Chander who were appointed vide order dated 23.10.86.

2. Admittedly, the applicant was initially appointed as a temporary A.S.I(Radio Technician) in the Central Reserve Police in 1965 in the pay scale of 150-210/-. He passed the Refresher Course Grade II in January, 1969. Later on, in response to an advertisement for the post of Radio Technician (Temporary) in the Delhi Police, he submitted an application and joined the post of Temporary A.S.I (Radio Technician) on 12.12.69 in the pay scale of 150-380/-. He remained as Radio Technician upto the scale of 170/- and, thereafter, was upgraded notionally as Sub-Inspector in the same scale as per Recruitment Rule 12.3(b) w.e.f. 12.12.71.

He was confirmed as A.S.I/S.I.(Radio Technician) in the same running scale w.e.f. 12.2.73. Consequent to the revision of pay scale as a result of the recommendations of the Third Pay Commission which took effect from 1.1.73. A.SI/S.I(Radio Technicians were given the scale of 380-640 and S.Is (Supervisor) (Technical) in the Delhi Police were given the scale of 425-700. The applicant's pay was fixed at Rs.392/- w.e.f. 1.1.73 in the scale of 380-640. The applicant claims that his pay actually should have been fixed at Rs.428/- in the scale of 425-700 as he was made S.I. w.e.f. 12.12.71 and was confirmed as such on 12.2.73, on the basis that in the new scale of Radio Technician after the scale of Rs.404/-, an ASI becomes S.I., but he states that his representation is still pending. The applicant further claims that under Rule 17(B)(vi) of the Rules for the promotion of Inspectors(Comm) (Technical), S.I.(Supervisor) (Technical) and Radio Technician (ASI/SI), the post of S.I.(Supervisor) Technical) is a non-selection post and mode of recruitment is by promotion/deputation/transfer. The promotion is to be made to this post of S.I.(Supervisor) (Technical) from amongst confirmed ASIs, Radio Technician having passed Grade I Course with six years' service in the grade, failing which from amongst confirmed ASIs(Radio Technician) Grade-II with eight years service in the grade, subject to the condition that they shall pass the Grade I(Radio Technician) Course within a period of three years from the date of promotion; otherwise they shall be reverted to their substantive rank of ASI(Radio Technician). The applicant contends that as no qualification is provided for confirmed SIs(Radio Technician) and since the post is a non-selection post, they will automatically, in order of seniority, be

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appointed as Supervisor (Technical) in the scale of 425-700 as they are already confirmed SIs (Radio Technician).

3. The applicant further contends that after his confirmation as S.I. in 1973, he worked as S.I. Incharge Wordshop independently and permanently from April, 1975 to February, 1980 where his work was appreciated. However, he admits that thereafter he was involved in two departmental enquiries which were later on dropped vide orders dated 12.7.85 and 10.3.86. He claims that he was due for regular appointment to the post of Supervisor in the scale of 425-700 as he was already confirmed as S.I. but because of pending departmental enquiries, he was not appointed as Supervisor. He was again appointed Incharge RWS North District w.e.f. 6.5.84 and he is working on the post till this date. In the mean time, he contends, 17 persons junior to him were appointed as Supervisors. He has annexed a seniority list of S.Is/A.S.Is(Radio Technicians) in which his name figures at Serial No.3 and states that in the light of the same, he has been making representations for being paid the scale of 425-700, but in the mean time the respondents issued order dated 23.10.86 (Annexure-F) wherein List-E of ^{As confirmed} A.S.Is, Radio Technician for promotion to the post of S.I. (Supervisor) (Technical) was issued w.e.f. 16.10.86 in which he was placed at Serial No.21, although the persons at Serial Nos.2 to 20 have been confirmed much after him. He states that in pursuance of the said list-E, 17 persons junior to him were appointed as S.Is(Supervisor) (Technical) on

23.10.86, 23.10.86 and 26.12.86 vide Annexures G, H and I respectively. He states that he represented on 25.11.86 vide Annexure-J but has received no reply till this date. The applicant also claims that he has adversely been effected by wrong fixation of pay scales awarded by the Third Pay Commission and Fourth Pay Commission.

4. The respondents have contested the application and have averred that as per old recruitment Rules 12.3(b) of PPR and as per Delhi Public Appointment and Recruitment (Amendment) Rules, 1986 notified vide Delhi Administration's letter dated 31.7.86, the feeder posts for promotion to the rank of Inspector Technical/^{are} from amongst confirmed SIs Supervisor Technical/SIs Supervisor (Stores) with six years service in the Grade, and similar feeder posts for promotion to the rank of SIs (Supervisor) (Technical) are from amongst confirmed A.S.Is (Radio Technician) having passed Grade Ist course with six years service in the grade, failing which from amongst confirmed A.S.Is (Radio Technician) Grade II with eight years service in the grade are eligible, subject to the condition that they shall pass Grade I Radio Technician Course conducted/approved by the DCPW within a period of three years from the date of promotion; otherwise they shall be reverted to the rank of A.S.Is (Radio Technician). Thus, as per Rule 17-B(vi), cited above, the minimum requirement for regular promotion to the rank of S.I. Supervisor Technical is Grade-I. The applicant was not considered for regular promotion to the rank of S.I. (Supervisor) (Technical)

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by the Departmental Promotion Committee held on 16.10.86 as he was not Grade I but was only a Grade II Radio Technician and eligible Grade I Technician, were already available for promotion at that time. In the Departmental Promotion Committee, held on 16.10.86, he was brought on Promotion List-E for the post of S.I.(Supervisor)/(Technical) w.e.f. 16.10.86 as no other eligible Radio Technician Grade-I was available at that point of time and he was promoted to the rank of S.I. Supervisor Technical w.e.f. 30.12.86 subject to condition that he ~~shall~~^{must} pass the Grade I Radio Technician Course within a period of three years from the date of his promotion, failing which he would be reverted to his substantive rank of A.S.I Radio Technician. The respondents have, therefore, stated that the action taken is fully in accordance with rules and regulations, and the application is devoid of merit and, therefore, is fit to be dismissed.

5. We have heard the learned counsel for the applicant- Smt. Avinash Ahlawat and Shri B.R.Parashar learned counsel for the respondents and have also perused the material on record. According to Rule 17-B(v) of the Rules for Promotion of Inspector (Comm.)(Technical), the post has been described as non-selection post, the promotion ~~for~~^{by} which is to be made from amongst the confirmed S.Is Supervisor Technical/Supervisor (Stores) with six years service in the grade. Under Rule 17-B(vi) of those rules promotion to the post of S.I. Supervisor Technical is to be made from amongst confirmed A.S.Is/Radio Technician having passed Grade I Course, with six years service in the grade, failing which from

amongst confirmed A.S.Is (Radio Technicians) Grade II with eight years service in the grade subject to the condition that they shall pass the Grade I (Radio Technician) Course, conducted/approved by the DCPW, within a period of three years, from the date of promotion, otherwise they shall be reverted to their substantive rank of ASI (Radio Technician).

6. It is clear from the above rule that the promotion to the post of S.I Supervisor Technical is to be made from amongst the confirmed A.S.Is/ Radio Technicians having passed Grade I course with six years service in the grade and if those are not available then the promotion to the post of S.I. Supervisor Technical is to be made from amongst the confirmed ASIs (Radio Technicians) Grade II with eight years service in the grade, subject to the condition that they shall pass the Grade I (Radio Technician) course within a period of three years from the date of promotion, failing which they are to be reverted. As the applicant had not cleared Grade I Examination but had passed only Grade II course, in the promotion List -E, issued on 23.10.86, he was placed below those who had cleared Grade I Examination after exhausting all the available candidates cleared Grade I Course, as no other eligible Radio Technician Grade I was available. Merely by virtue of finding his name in Promotion List -E in the Grade II Category, the applicant cannot claim seniority over all those who had cleared Grade I much before him. Ultimately, as per rule, referred to above, he was promoted to the rank of S.I Supervisor Technical w.e.f. 30.12.86 subject to his passing Grade I Course within a period of three years from the date of his promotion.

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and the action thus taken by the respondents was fully in accordance with rules and the applicant's grievance on this account has no force.

7. So far as the applicant's claim to promotion as Inspector (Communication) (Technical) is concerned, Rule 17(B)(v) provides that the promotions to this post are to be made from amongst confirmed SIs (Supervisor) (Technical)/ Supervisor (Stores) with six years service, and the applicant is neither. Hence this claim also has no merit.

8. Regarding the applicant's grievance that his pay was wrongly fixed and it should have been fixed in the scale of 425-700 on the strength of having been confirmed as ASI/SI Radio Technician w.e.f. 12.2.73, it is clear that he was confirmed in the scale of 380-640, and merely because, he was upgraded notionally to the rank of S.I. on 12.12.71, and confirmed as such, (but in the running scale of 380-640) w.e.f. 12.2.73, cannot give him benefit of pay fixation in the scale of 425-700 w.e.f. 1.1.73 which is admissible to SIs (Supervisor) (Technical). Hence this claim has also no force.

9. In the result, we see no grounds to interfere with the order already passed, and this application is accordingly dismissed. No costs.

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

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(S.K. Dhaon)
(S.K. DHAON)
VICE-CHAIRMAN (J)