

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 624/87.
T.A. No.

198

DATE OF DECISION May 8, 1989.

Shri R.P. Manchanda

Petitioner

In person.

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondents.

Shri Mukul Talwar, counsel

Mrs. Avnish Ahlawat, counsel.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. P. Srinivasan, Member. (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
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*

MGIPRRND-12 CAT/86-3-1286-15,000

(P. Srinivasan)
Member (A)
8.5.89.

(Amitav Banerji)
Chairman
8.5.89.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No.624/87.

Date of decision: May 8, 1989.

Shri R.P.Manchanda ...

Applicant. (7)

Vs.

Union of India & Ors ...

Respondents.

Coram:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. P.Srinivasan, Member (A).

For the Applicant

In person.

For the Respondents

Shri Mukul Talwar, counse
Mrs. Avnish Ahlawat,
counsel.

(Judgment of the Bench delivered in Court by
Hon'ble Shri P.Srinivasan, Member (A)).

The applicant who was working in the Delhi Police retired from service on 31.8.1981 in the rank of Inspector of Police. He complains in this Application that in 1965 when he was a Sub-Inspector, he appeared for a test for promotion to the post of Inspector along with others including Shri Sewak Singh and Shri H.C. Bhatla and that he was wrongly denied promotion after the test while his junior Shri H.C. Bhatla was given promotion. Shri Sewak Singh, who was senior to Shri H.C. Bhatla and others filed a writ petition before the High Court of Delhi which was decided in his favour on 22.11.1982. The High Court held that the Service Rules do not require a test to be held for promotion to the post of Inspector. Relying on this judgment, the applicant who presented his case himself urged that his omission for the purpose of promotion was wrong because it was due only to his having failed in the test. On the

P. Srinivasan

other hand, he was senior to Shri H.C. Bhatla who was selected and promoted and on that basis he should have been promoted and given all consequential benefits flowing therefrom including the promotion, higher pay etc. (8)

Shri Mukul Talwar, counsel for the respondents strongly opposed the contentions of the applicant and submitted in the first place that the Application was barred by limitation, since the cause of action arose in 1965 when the Applicant was denied promotion. Since the cause of action arose well before 1.11.1982, this Tribunal could not entertain the Application in view of many decisions rendered by several Benches of this Tribunal. Even on merits, Shri Talwar submitted that the applicant had not shown that his case was on all fours with that of Shri Sewak Singh.

We were initially inclined to dismiss this Application on the ground that the cause of action arose long ago i.e. in 1965. But on further reflection, we felt that the applicant having in his Application sought also pensionary benefits, the Application could be considered for the purpose of computing the pension payable to him in the future. The High Court held in Sewak Singh's case that a test was not required to be held for promotion to the post of Inspector. Promotion was denied to the applicant on the sole ground that he did not pass the test

P. H. Singh

while Shri H.C. Bhatla and Shri I.L.Vij did. We, therefore, feel that the ends of justice would be met if we issue the following directions. We, therefore, direct:

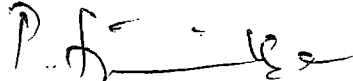
- (i) that the case of the applicant for promotion to the post of Inspector in 1965 be considered ignoring the fact that he failed in the test, but applying all ~~other~~ requirements for such promotion. If the applicant is found fit for promotion, the respondents will give him notional promotion from the date from which his immediate junior was promoted as a result of the impugned test held in 1965 without any monetary benefit.
- (ii) If the applicant is found fit for promotion in accordance with our direction at (i) above, and as a result of such promotion his seniority in the grade of Inspector is revised, he should be considered for further promotion to the next higher post as and when his juniors were considered and selected. If he is found fit for promotion to such higher post, he should be given promotion to that post again on a purely notional basis without any monetary benefit.
- (iii) In this manner the respondents will fix the salary and allowances to which the applicant would have been entitled on the date of his superannuation and on that basis, calculate the pension to which he would be entitled now, and give him such revised pension, if any, from 1.6.1989. No arrears will be paid to him for period prior to that date because he has come to court so late i.e. nearly 24 years after the date on which, according to him, he should have been promoted; and
- (iv) The respondents should complete the above exercise within six months from the date of the receipt of this order.


The Application is disposed of on the above terms

P. L. Vij

leaving the parties to bear their own costs.

A copy of this order may be handed over to
counsel for both parties as soon as we have signed it.


(P. Srinivasan)
Member (A)
8.5.1989.


(Amitav Banerji)
Chairman.
8.5.1989.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

*OA/TA/RA/CCP No. 227/90 in 19

DA No. 624/87

Shri R.P. Manchanda

APPLICANT(S)



COUNSEL

VERSUS

Delhi Administration

RESPONDENT(S)

COUNSEL

Date	Office Report	Orders
	<p align="center">SRD</p>	<p><u>8.1.1990</u></p> <p>Petitioner present in person.</p> <p>The persons named as Respondents 1, 2 and 3 have all been transferred and no longer holding those posts. Three other persons have been posted as Respondents 1,2 and 3. The petitioner may move appropriate M.P. for their impleadment.</p> <p>It is just and proper that the petitioner makes appropriate application for implementation of the Tribunal's order dated 8.5.1989 to the new persons, Respondents 1,2 and 3. He should also indicate as to the reply or the result of such applications made to the above persons. The petitioner is granted a month's time to do so.</p> <p>List the case on 15.2.1991.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (I.K. RASGOTRA) MEMBER(A) </div> <div style="text-align: center;">  (AMITAV BANERJI) CHAIRMAN </div> </div>