

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No.1095/87

DATE OF DECISION: 6.9.91.

Shri Kedar Nath - Applicant.
Shri Sunil Malhotra - Advocate for the applicant.
Verses
Union of India Respondents
Shri Dinesh Kumar - Advocate for the Respondents.

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The Hon'ble Mr. P.K. KARTHA, VICE-CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, 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*

(JUDGEMENT)

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE MEMBER(A)
SHRI B.N. DHOUNDIYAL)

This O.A. has been filed by Shri Kedar Nath, a retired Sub Inspector of Delhi Police against his delayed confirmation as Head Constable which has adversely affected his subsequent promotions as Assistant Sub-Inspector and Sub-Inspector.

2. The applicant was appointed as constable on 4.7.49, completed his lower school training in 1953 and was promoted as Head Constable on 4.5.1954. Though under rule 13.18, Punjab Police Rule 1934, he was entitled for confirmation on 4.5.1956, he was confirmed only on 1.3.1962 i.e. after the expiry of nearly 8 years. There-after he was sent for intermediate course in 1971 (instead of 1961) and was promoted Assistant Sub-Inspector on 11.5.1972. He was promoted as Sub-Inspector on 1st June 75 and continued to work as such till 1977 when he was reverted back as Asstt. Sub-Inspector. After completing his upper school course in 1977, he was again promoted

as Sub-Inspector on 15.11.1977. In accordance with Punjab Police Rules.13.9, every person who has passed lower school course, has a right to be deputed for intermediate school course, strictly in accordance to his seniority. The applicant claims that he stood automatically confirmed as Head Constable w.e.f. 4.5.1956 in terms of PP Rule 13.18. A seniority list published by the respondents did not show his name and he learnt that his juniors were being promoted as Inspector. He made a representation to the respondents and cited the Judgement given by the Hon'ble Tribunal on 25.2.1987, in case of Dal Chand and others Vs Union of India (T-206/85). However, the benefits of this Judgement were not extended to him. He has prayed that directions be issued to the respondents to confirm him as Head Constable w.e.f. 4.5.1956 and his confirmation as Asstt. Sub-Inspector and Sub-Inspector in order of seniority from the date when his next junior was promoted.

3. The various dates of appointment, promotion and confirmation have not been disputed by the respondents. However, they have explained that he was reverted to substantive rank of A.S.I. w.e.f. 5.4.1977, on having been selected to undergo a lower school course for A.S.I. at FTC Phillaur. He passed the above course but his name was not included in the promotion list "E" due to pendency of enquiry against him and want of his ACR of 1976-77. After finalisation of said enquiry his name was admitted in the promotion list and he was also promoted to officiate as Sub-Inspector. However, the period from 15.11.1977 to 10.1.1978 was treated as proforma promotion counting towards his promotion and seniority. His confirmation in the rank of Sub-Inspector was delayed on account of his being awarded of penalty on censure and he was confirmed as Sub-Inspector only on 3.4.1981. The respondents have emphasised that no junior to the applicant has been considered for promotion to the rank of Inspector. They have also pointed out that he was confirmed in the rank of Head Constable on 15.11.1962 in his turn in accordance to his seniority and even if his confirmation in the rank of Head Constable is pre-dated, it would not have entitled him for deputation to intermediate course earlier than his seniors.

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According to Punjab Police Rule 12.2(3), seniority of lower subordinates is reckoned from the date of appointment.

4. In his rejoinder, the applicant has given the names of Shri Attar Singh, Diwan Singh and other police officers who were promoted to the rank of Inspectors and who were his juniors as constables. He has also emphasised that his case is completely governed by the Judgement of this Tribunal in T-206/85, and T-211/85, delivered on 25.2.1987.

5. We have carefully gone through the records of the case and have heard the learned counsel for both parties. In Dal Chand Vs. Union of India and others and other connected matters (T-206/85) this Tribunal has held in its Judgement dated 25.2.87, that the petitioners shall be deemed to have been confirmed as Head Constables with effect from the dates on which they completed a period of two years service after their promotion as Head Constables, that they shall also be considered for promotion as Assistant Sub Inspectors from the dates their next juniors were promoted and also shall be considered for promotion as Sub Inspectors from the dates their next juniors were promoted. In this context, the Tribunal relied upon the decision of the Delhi High Court in Kartar Singh vs. Union of India dated 14.9.82, which had become final and held that it would be inequitable and discriminatory to deny the same reliefs to the applicants, who were similarly placed.

6. We reiterate the same view. The applicant before us would also be entitled to the same reliefs. As the applicant has retired from service on attaining the age of superannuation on 31.5.89, the applicant would be entitled to the monetary benefits only at this stage.

7. We, therefore, direct that the applicant shall be deemed to have been confirmed as Head Constable with effect from the date he completed a period of 2 years of service after his promotion as

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Head Constable with effect from 4.5.1956. He shall also be considered for promotion as Assistant Sub Inspector and Sub Inspector from the date, his next junior was promoted. He would be entitled to arrears of pay and allowances. His pension and other retirement benefits shall be revised accordingly. The respondents shall release the payments due to him and issue orders for revision of pension within a period of three months from the date of receipt of this order.

There will not be any order to ^{as} ~~pass~~ ^{Cost.}

B.N. Dhoondiyal
 (B.N. DHOONDIYAL) 2.7/58
 MEMBER (A)

P.K. Kartha
 6/8/58
 (P.K. KARTHA)
 VICE CHAIRMAN (J)