

18 (3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.350/94 in OA No.1064/88

NEW DELHI THIS THE 31ST DAY OF MARCH, 1995.

MR. JUSTICE S.C.MATHUR, CHAIRMAN
MR. P.T. THIRUVENGADAM, MEMBER(A)

Shri Dilbag Singh
S/o Shri Ram Gopal
R/o 23, House No.8
Indira Vikas Colony
Kingsway Camp,
Delhi.

.....
Petitioner.

(BY ADVOCATE MRS. SUMEDHA SHARMA)

vs.

1. Shri M.B. Kaushal,
The Commissioner of Police
Indraprastha Estate,
P.H.Q.M.S.O. Building
New Delhi.

2. Shri M.S. Upadhaya
Dy. Commissioner of Police
Police Control Room
M.S.O. Building P.H.Q.
Delhi.

...
Respondents

(BY ADVOCATE SHRI O.N. TRISHAL)

ORDER(ORAL)

JUSTICE S.C. MATHUR:

The petitioner alleges disobedience by the respondents of the Tribunal's order dated 8.11.1993 passed in OA No.1064/88.

2. The aforesaid Original Application was directed against the order of punishment imposed upon the petitioner as a result of disciplinary proceedings. By the punishment order, the petitioner's increment in salary was forfeited for one year. This punishment was quashed by the Tribunal in the following terms:

" The impugned order of punishment dated 13.8.1987 and that of the appellate authority of 19.4.1988, are quashed and set aside. The applicant shall be allowed to draw the increment if that has been stopped by giving effect to the punishment order and will get all the consequential benefits of his pay, allowances, promotion as well as seniority."

3. The learned counsel for the petitioner does not dispute that the petitioner has been paid arrears

of salary and has also been given promotion to the rank of Assistant Sub-Inspector of Police with effect from 22.1.1987. Her grievance is that the promotion has been given on proforma basis and the arrears of salary have not been paid since 22.1.1987. Another grievance of the petitioner is that ad hoc promotions were made in March, 1994 but he was not given such promotion to the rank of Sub-Inspector of Police.

4. In the reply filed on behalf of the respondents, denial of salary of the higher post with effect from 22.1.1987 has been justified with reference to Fundamental Rule 17. It is pointed out that there was no specific direction from the Tribunal that the petitioner shall be paid arrears of salary for the promotional post. We find substance in the submission made on behalf of the respondents.

5. An identical plea raised in CCP No.132/93 arising from OA No.39/87(Sh.Jodh Singh Vs. Union of India) was negatived by a Division Bench of the Tribunal on 12.8.1994. Accordingly, the respondents cannot be held guilty for giving to the petitioner only proforma promotion to the rank of Assistant Sub-Inspector of Police with effect from 22.1.1987 and not making payment of arrears from that date.

6. With regard to promotion to the post of Sub-Inspector made in October, 1994 after consideration of the eligible candidates by the Departmental Promotion Committee, it is stated that the petitioner was also considered for promotion but he was not found fit by the Committee. The petitioner could at the most claim consideration but not actual promotion.

7. In respect of ad hoc promotions which were made on 31.3.1994, it has been stated in the reply that at that time, the petitioner was not eligible. The exact

ineligibility from which the petitioner was suffering has not been disclosed in the reply. In oral arguments, the learned counsel submitted that the rules require 5 years' service in the grade for being eligible for promotion to the higher rank. The petitioner has been promoted to the rank of Assistant Sub-Inspector of Police with effect from 22.1.1987. Accordingly, by March 1994, he had completed more than 5 years' service in the rank of Assistant Sub-Inspector of Police. It cannot, therefore, be said that the petitioner was not eligible. However, we do not propose to take any action in respect of the ad hoc promotions as the purpose of civil contempt proceedings is to obtain obedience to the orders of the Tribunal. At this stage, regular promotions have been made to the post of Sub-Inspector of Police. With regular promotions, ad hoc promotions automatically comes to an end.

8. It also needs to be pointed out that it is not the case of the petitioner that the vacancies against which ad hoc promotions were made in March, 1994 were existing even on the date the Original Application was decided by the Tribunal. Accordingly, it is not possible to say that promotion, ad hoc or otherwise, to the rank of Sub-Inspector of Police was a consequential benefit within the meaning of the expression used in the Tribunal's judgement.

9. In view of the above, the CP is dismissed but without any order as to costs. Notice issued is hereby discharged.

P. J. Thiruvengadam
(P.T. THIRUVENGADAM)
MEMBER(A)

S. C. Mathur
(S.C. MATHUR)
CHAIRMAN

SNS