

24

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 114/94
IN
O.A. NO. 1535/89

New Delhi this the 20th day of January, 1995

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Nahar Singh S/O Mange Ram,
R/O Village Kasandi,
P.O. Kasandi,
Tehsil Guhana,
Distt. Sonapat (Haryana). ... Applicant
(By Advocate Shri S. M. Rattan Paul)

Versus

Shri M. B. Kaushal,
Commissioner of Police,
Delhi Police,
Police Headquarters,
New Delhi. ... Respondent
(By Advocate Shri Surat Singh with Shri
S. N. Srivastava, Dy. Commissioner of
Police, Deptt. Representative)

O R D E R (ORAL)

Shri Justice S. C. Mathur -

The applicant alleges disobedience by the respondent of the Tribunal's judgment and order dated 12.10.1993 passed in O.A. No. 1535/89.

2. The above O.A. was directed against the order of applicant's dismissal from service. The Tribunal quashed the order of dismissal from service and directed that the applicant shall be given consequential benefits including reinstatement in service and consideration for promotion.
 3. The applicant does not dispute that he has been reinstated in service and given monetary benefits. His only grievance at this stage is that he has not
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been given promotion to the post of Head Constable and he has not been assigned seniority. The learned counsel for the applicant has stated that the applicant presses for promotion under List 'A'.

4. It is not disputed that for purposes of promotion under List 'A' a Constable must first be confirmed. On behalf of the respondent, it has been pointed out that the applicant's case for confirmation was considered but he was not actually confirmed because of the bad record of service and pendency of a criminal case against him. Deputy Commissioner of Police, Shri S. N. Srivastava, appeared personally in pursuance of our direction and produced before us the relevant record. From the record, it appears that the applicant was considered for confirmation on 2.12.1994. There is reference to the adverse material existing in the record against him. There is also reference to the criminal case pending against him under Sections 420, 468 and 471 I.P.C. In our opinion, the respondent cannot be said to have acted arbitrarily in denying confirmation to the applicant on account of the adverse material existing against him. Rule 18 (iv) of the Delhi Police (Promotion and Confirmation) Rules, 1980 specifically provides, "No member of subordinate rank, who is under suspension or facing departmental/criminal proceedings shall be eligible for confirmation...." The action of the respondent, therefore, has the support of statutory rules.

5. Learned counsel for the applicant submitted that a direction may be issued to the respondent

at this stage to consider the applicant's case for confirmation after the criminal proceedings are over. In the contempt proceedings, there is no question of issuing a direction. In the present proceedings we have only to see whether there is disobedience of the Tribunal's direction. It is for the applicant to approach the concerned authority after the criminal case is decided in his favour to make the necessary request for confirmation.

6. Learned counsel for the applicant next submitted that the respondent is in contempt also because the applicant has not been assigned seniority. The judgment of the Tribunal does not make a specific direction to prepare seniority list. The question of seniority will become relevant only when the applicant becomes due for promotion.

7. In view of the above, the application is rejected. There shall be no order as to costs.

P. J. 2a

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

/as/