

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 1525/90 with Date of decision: 13.04.1992.
OA 1664/90, OA 1665/90
OA 1666/90, OA 1667/90
and OA 1668/90.

Shri Bhoop Singh & Others ...Applicants

175.

Commissioner of Police, Delhi & Others ... Respondents

For the Applicants ..Shri Shanker Raju,
Counsel

For the Respondents ..Mrs. Avnish Ahlawat, Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

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

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

As common issues have been raised in these applications, it is proposed to dispose them of in a common judgment.

2. The applicants were initially appointed as Constables in the Delhi Police and thereafter were promoted as Head Constables (Executive) before the year 1967. Applicant Nos. 1, 2, 4 and 6 were placed under suspension with effect from

19.4.1967 while applicant Nos. 3 and 5 were placed under suspension with effect from 15.4.1967 in the wake of police agitation which took place in April, 1967. They were reinstated in 1971. They were not paid full pay and allowances nor were they given consequential benefits of seniority and promotion from the dates their colleagues were so promoted. Some of the colleagues of the applicants filed Civil Writ petitions in the Delhi High Court which stood transferred to this Tribunal and were disposed of by a common judgment dated 25.12.1987(TA-206/85 and connected matters, Shri Dal Chand & Others Vs. Union of India & Others). The applications filed by the colleagues of the applicants were allowed by the Tribunal. It was directed that the petitioners shall be given full pay and allowances to which they would have been entitled had they not been suspended. Further, they shall be deemed to have been confirmed as Head Constables with effect from the dates on which they completed a period of 2 years of service after their promotion as Head Constables. 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 case they were found fit, they shall get their promotion retrospectively from the dates their juniors were promoted as Assistant Sub Inspectors and Sub Inspectors respectively.

3. Accordingly, the applicants in Dal Chand's case were reinstated from the date of suspension and paid full pay and

allowances. They were also given seniority and promotion to the rank of ASI and Sub Inspector. In view of this, the applicants before us made representations to the respondents but the same did not meet with any success. That is how the present applications came to be filed in the Tribunal.

4. We have carefully gone through the records of the case and have considered the rival contentions. The respondents have raised a preliminary objection that the application is hopelessly barred by time and is liable to be dismissed on that score. On the merits they have admitted that in Dal Chand's case, the petitioners were given the benefit of pay and allowances and seniority and promotion admissible to them in the light of the judgment of the Tribunal.

5. The respondents have not contended that the applicants are not similarly situated like their colleagues in Dal Chand's case. In our opinion, the plea of limitation raised by the respondents is not legally tenable. The judgment of the Tribunal dated 25.2.1987 in Dal Chand's case gave a fresh cause of action to the applicants in the instant case. They, therefore, made representation basing their claim on the judgment in Dal Chand's case. The representations were rejected by the respondents and thereafter the applicants filed the present applications. Apart from the above, we are of the

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opinion that the respondents should have on their own extended the benefit of the judgment in Dal Chand's case to all persons similarly situated without forcing them to make representations and file applications in the Tribunal seeking ~~the~~ ^a remedy.

6. In Lt. Governor of Delhi Vs. Constable Dharam Lal, 1990(2) ATLT 3G 381, the services of the respondents who were appointed as Constables in Delhi Police in the years 1964-65 were terminated because of their participation in the agitation along with other Police Constables in April, 1967. In view of the public controversy and in deference to the views expressed in Parliament, a large number of agitating Constables were taken back in service as fresh entrants. Later, in view of the assurance given in the Parliament by the then Home Minister, prosecutions were withdrawn and the dismissed Constables were reinstated into service. Some of the dismissed Constables filed a Writ Petition in the Delhi High Court which, by its judgment dated 1.10.1975 quashed the order of termination of the petitioners in that case and were declared to be throughout in service. The Police Administration preferred separate appeals before Division Bench which were dismissed as barred by time and the judgment of the High Court dated 1.10.1975 became final.

7. Some of the other Constables whose services were similarly terminated but were not reinstated in service

even as fresh entrants, filed Writ Petitions in the Delhi High Court subsequently. These petitions were heard by Anand, J., who rejected the contention raised by the respondents regarding delay and laches in moving the Writ Petitions. He allowed the Writ Petitions quashing the impugned order of termination declaring that the petitioners will be deemed to have been in service and would be treated as such, subject to certain conditions. The appeal preferred by the Delhi Administration against the judgment of the Single Bench was dismissed. Thereafter, the respondents in the case before the Supreme Court filed Writ Petitions in the High Court against the order of termination of their services praying for quashing of the orders of termination and for reinstating them in service with effect from the respective dates of their termination of services and to treat them as being in service throughout and to award them all consequential benefits. These Writ Petitions were subsequently transferred to this Tribunal. The Tribunal while rejecting the plea of the respondents that the petitioners should be denied any relief because of delay and laches held that the claims of the petitioners (respondents in the appeal before the Supreme Court) was identical to the claim of the petitioners whose petitions were allowed by the Delhi High Court. The Tribunal further held that the petitioners were entitled to the same relief as was granted to the petitioners by the Single Judge of the Delhi High Court, mentioned above.

6. Against the judgment of the Tribunal, the Delhi Administration filed the aforesaid appeal before the Supreme

Court. Considering the facts and circumstances as well as the judgment rendered by the Single Judge of the Delhi High Court, the Supreme Court dismissed the appeals and confirmed the judgment and order dated 26.11.1986.

9. The aforesaid decision of the Supreme Court clearly indicates that persons similarly situated are entitled to the benefit of an earlier judgment and that the same should not be disallowed on the ground of limitation. In any event, the Government should not raise the technical plea of limitation to defeat the just claims of its employees.

10. In the facts and circumstances of the case, we are of the opinion that the applicants are entitled to succeed in the present applications. Accordingly, the applications are disposed of with the following orders and directions:-

- (i) The respondents shall treat the period of suspension of the applicants as already spent on duty for the purpose of pay and allowances. Accordingly, the respondents shall, therefore, pay to them the arrears of pay and allowances.
- (ii) The applicants shall be deemed to have been confirmed as Head Constables with effect from the date they completed 2 years after their promotion as Head Constables in accordance with Rule 13.18 of the Punjab Police Rules and their seniority shall be counted from the dates of promotion in accordance with Rule 12.2(3) of the said rules.



(iii) The applicants shall be considered for promotion as ASIs with effect from the dates when their juniors were promoted and confirmed as such after the expiry of 2 years from the date of promotion in accordance with Rules 13,18 of the Punjab Police Rules. In case they are found fit, they shall be promoted as ASIs.

(iv) The applicants shall be considered for further promotions and confirmations in accordance with the relevant rules.

(v) The respondents shall comply with the above directions as expeditiously as possible and preferably within a period of 4 months from the date of communication of this order.

There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUDIYAL)
MEMBER (A) 13982

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(P.K. KARWA)
VICE CHAIRMAN (J)

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