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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1590/90.

Date of decision. 31.8.94

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Const. Satbir Singh No.239/Crime, NOW 3/SB,
son of Shri Khazan Singh,
r/o House No. 1/148, Shastri Colony,
Old Faridabad (Haryana)
presently posted at Special Branch,
Control Room, Police Headquarters,
New Delhi. .. Applicant.

(Advocate by Shri Shankar Raju)

versus:

1. The Commissioner of Police,
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi. .. Respdt.No.1
2. The Deputy Commissioner of
Police, Headquarter (I),
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi. .. Respdt.No.2.

(By Advocate Shri O.N. Trisal)

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[- Hon'ble Smt. Lakshmi Swaminathan, Member (J) -]

This application has been filed by Constable
Satbir Singh against the order issued by the Deputy
Commissioner of Police dated 15.11.1989 (Annexure A-2)
rejecting his claim for promotion to the rank of
Head Constable on the ground mentioned therein.

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2. The learned counsel for the applicant submits that this case is in all force with the case of Sant Ram v. Commissioner of Police in O.A. No. 186/90 which had been decided on 10.6.1994. Accordingly, he has prayed for the following reliefs :-

- (a) To quash the impugned order at Annexure A-2;
- (b) To direct the respondents to consider him for promotion to the rank of Head Constable w.e.f. 1975 and for further promotion to the rank of ASI with all consequential benefits.

3. The learned counsel for the respondents did not raise any question regarding the similarity of the facts in O.A. No. 186/90 and the present case. However, his contention was that since the applicant was claiming relief for promotion w.e.f. 1975, the case is hopelessly time barred and the Tribunal has no jurisdiction in the matter having regard to the provisions of Section 20 and 21 of the Administrative Tribunals Act, 1985.

4. Before dealing with the merit of the case, we will consider the preliminary objection taken by the respondents on the question of limitation and jurisdiction. The respondents have given a detailed reply to the applicant's representation dated 15.11.1989 on the subject of his name being included in List 'A' of the persons to be sent on Lower School Course for

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for promotion to the rank of Head Constable. On receipt of the reply, the applicant being aggrieved by the same has filed this O.A. on 1.8.1990, which is within the period of limitation of one year as prescribed in Section 21(1)(a) of the Administrative Tribunals Act, 1985, and we, therefore, reject the preliminary objection taken by the respondents on the ground of limitation. Regarding the merit of the case, it will be necessary to set out the brief facts and to see whether this case is similar to the earlier O.A. 186/90. ~~U.P. Public Service Commission~~

5. Constable Satbir Singh joined as a temporary constable in Delhi Police on 21.9.1971 and was confirmed as Constable Time Scale w.e.f. 15.2.1976. The respondents have admitted in their reply that his name has been brought on Promotion List 'A'-I w.e.f. 11.4.1975 which was meant for promotion to the rank of Constable Selection Grade and to appear further in Promotion List before B-I. However, his name was put on Promotion List B-I, the Delhi Police (Confirmation and Promotion) Rules, 1980 promulgated. According to the respondents, since the applicant had neither earned old Promotion List B-I nor new Promotion List 'A', he did not come in the zone of consideration for being sent for training to Lower

19

School Course and promotion to the rank of Head

Constable. It is precisely on this ground of rejection vide letter 15.11.1989 that he has filed this

O.A.

6. In the case of Constable Sant Ram in O.A.

186/90, he had been brought on Promotion List A-I

w.e.f. 30.12.1968 and he had been promoted as offi-

cating Selection Grade Constable w.e.f. 1.5.1969.

The respondents in that case also had rejected his

representation for being sent for Lower School Course

Training and for promotion to Head Constable on similar

grounds, namely, that he had neither earned old Promotion

List B-I or new Promotion List 'A' and hence, he

could not be considered for promotion to the post of Head

Constable.

7. From the facts narrated above, it is clear that

the facts in the present case are in all force with those

in O.A. No. 186/90 for the reasons given in paragraphs

7 and 8 of the judgment in O.A. No. 186/90 dated 10th

June, 1994. We, therefore, hold that the applicant has

a right to be considered for promotion to the post

of Head Constable as per the Punjab Police Rules, as

unamended, by notification of 1977, in accordance with

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the ratio provided in Rule 13.8 of the Rules.

8. This application is, therefore, allowed.

Respondents are directed to consider the applicant for promotion to the post of Head Constable in terms of the relevant rules as it stood before the amendments of 1977 after the applicant was brought on the Promotion List A-I w.e.f. 11.4.1975 within three months from the date of receipt of a copy of this order. He shall be entitled to the promotion w.e.f. the date his juniors have been promoted to the post of Head Constable with all consequential benefits, including pay and seniority and shall also be entitled to be considered for any further promotion as per rules. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

Arvadige
(S.R. Adige)
Member (A)