

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2089/1990 Date of decision: 27.11.1992

Shri Baljit Singh Bamel

...Applicant

Versus

Union of India & Others

...Respondents

For the Applicant

...Shri Shyam Babu,  
Counsel

For the Respondents

...Shri Anup Bagai,  
Counsel

CORAM:

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

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

1. To be referred to the Reporters or not? *Yes*

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

The applicant who is working as Sub-Inspector,  
Rashtrapati Bhavan Security, filed this application  
under Section 19 of the Administrative Tribunals Act,  
1985, praying for the following reliefs:-

(i) To quash Delhi Police HQ Circular No.32206-35/

CB-V dated 7.9.1990 (Annexure A15) only to the extent,  
it pertains to the inclusion of the name of the applicant

✓

in the list of Assistant Sub-Inspectors (Steno);

(ii) to direct the respondents to fix the inter se seniority of the applicant as Sub-Inspector (Ministerial) by taking into account his substantive service in the rank of Sub-Inspector (Steno) with effect from 5.1.1976, in his parent department, the Border Security Force with all consequential benefits;

(iii) to direct the respondents to consider the applicant for promotion as Inspector (Min.) with effect from the date his next junior Sub-Inspector (Ministerial) was so promoted in Delhi Police; and

(iv) to pass any other order or direction as may be deemed fit and proper in the circumstances of the case.

2. We have gone through the records of the case and have heard the learned counsel for both parties. The applicant joined the Border Security Force (BSF) in 1973 as Assistant Sub-Inspector. He was appointed as Sub-Inspector (Steno) in 1976 and confirmed as such in 1977 in the BSF. In 1984, he volunteered for deputation to Delhi Police as Sub-Inspector (Steno). He was duly selected as such and he joined the post on 5.2.1985. Thereafter, he was allotted Regimental/Range No. D3005. Eversince his induction as Sub-Inspector (Steno), the

Q

applicant drew the pay scale of his parent department, plus deputation allowance plus Rs.30/- as Metropolitan Allowance (MPA) per month, as admissible to other Sub-Inspectors of Delhi Police, as per the terms and conditions of deputation.

3. The applicant applied for permanent absorption in Delhi Police in response to Delhi Police letter dated 8.1.1987. He was accordingly absorbed permanently as Sub-Inspector (Steno) in Delhi Police w.e.f. 9.9.1988 and was allotted new Range No.D-1055. His pay was also fixed in the pay scale of Sub-Inspector, as applicable in Delhi Police Viz. 1640-2900 vide Deputy Commissioner of Police, New Delhi District Order No.2901-Q4/CR-ND dated 9.5.1988.

4. On 25.6.1990, the respondents informed the applicant that he had been taken from the Border Security Force on 5.2.1985 as Assistant Sub-Inspector (Steno) and subsequently he was permanently absorbed in Delhi Police as Sub-Inspector (Steno) with effect from 9.3.1988. It was further stated in the said letter that since there was no post of Sub-Inspector (Steno) in Delhi Police, the said order absorbing him permanently as Sub-Inspector (Steno) was issued inadvertently. It was also mentioned in the said letter that the applicant was taken on deputation as Assistant Sub-Inspector (Steno) as per Delhi Police HQ Order No.3163/Estd.(R) dated 15.4.1985.

14

5. On 7.9.1990, the respondents issued a circular calling for service particulars of Assistant Sub-Inspectors (Ministerial) as well as Stenographers for consideration of their names for promotion as Sub-Inspector (Ministerial). In the said list, the name of the applicant has also been included amongst Assistant Sub-Inspectors (Steno). The applicant has contended that at the time he joined Delhi Police in 1985, he was already holding the post of Sub-Inspector substantively in his parent department, Border Security Force, since 5.1.1976 and he had opted for the post of Sub-Inspector (Steno) in Delhi Police. As such, his reduction to the lower rank of Assistant Sub-Inspector, that too after absorbing him as Sub-Inspector in Delhi Police vide order dated 17.3.1988, at this stage, would be patently illegal, arbitrary, mala fide and unconstitutional. He has further contended that he is entitled to be considered for promotion to the next higher rank of Inspector (Min.) since he is fully eligible therefor.

6. The respondents have stated in their counter-affidavit that there is no post of Sub-Inspector (Steno) in Delhi Police, that the pay scale of Assistant Sub-Inspector (Steno) in Delhi Police and Sub-Inspector (Steno)

Q

of BSF are identical, that allotment of Range number did not automatically mean confirmation and that while taking the applicant on deputation, no rank had been indicated in the order but in the order of permanent absorption it has been inadvertently written as Sub-Inspector (Steno) as there is no post of Sub-Inspector (Steno) in Delhi Police. His pay was fixed in the pay scale of Rs.1640-60-2600-EB-75-2900 inadvertently and the same has been refixed in the pay scale of Rs.1400-40-1800-EB-50-2300 vide Additional Deputy Commissioner of Police, New Delhi District, New Delhi's order No.8872-75/CR-ND dated 1.12.1990.

7. Both parties have filed additional affidavits pursuant to our directions that they should give information on the following aspects:-

- (a) Whether any Sub-Inspector (Steno) of the BSF has been absorbed in the Delhi Police as Sub-Inspector (Steno)/Sub-Inspector (Ministerial) directly in the pay scale of Rs.1640-2900;
- (b) whether there are instances when Sub-Inspector (Steno) of the BSF has been absorbed as Assistant Sub-Inspector (Steno) in the Delhi Police in the scale of pay of Rs.1400-2300;

(c) whether there are any posts of Sub-Inspector (Steno) created as such in Delhi Police distinct from Sub-Inspector (Ministerial); and

(d) what is the corresponding post of Sub-Inspector (Steno) in the Delhi Police.

8. Even though there may not be the designation of Sub-Inspector (Steno) in the Delhi Police, Assistant Sub-Inspector(Steno) in the pay scale of Rs.1400-2300 and Assistant Sub-Inspector/Clerk in the pay scale of Rs.1320-2040 are eligible for promotion to the post of Sub-Inspector (Ministerial). This is clear from the provisions of Rule 16(iii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 dealing with Promotion List

1. Etc.

9. The applicant has annexed to his additional affidavit copy of an option dated 4.2.1987 given by Shri N. Vikram Nair, Sub-Inspector (Steno) of the BSF who was permanently absorbed in the Delhi Police. He opted for permanent absorption in the Delhi Police as Sub-Inspector (Steno) in the pay scale of Sub-Inspector of Delhi Police subject to the condition that the service he rendered in the BSF was counted towards the present service in the Delhi Police. Thereafter, the Delhi

Q

Police passed an order on 29.06.1988 stating that on having been absorbed in the Delhi Police w.e.f. 10.04.1988, the pay of Sub-Inspector(Steno) N. Vikram Nair was fixed at Rs.1640/-p.m. plus Rs.32/- special pay to be absorbed in future increments w.e.f. 10.04.1988 in the pay scale of Rs.1640-2900 (Vide Annexure 15 and 16 to the additional affidavit, pages 34-35).

10. The applicant has also annexed to his additional affidavit copy of letter dated 24.6.1991 regarding the filling up of the post of Sub-Inspector (Ministerial) in the Delhi Police. It is stated therein that Sub-Inspector (Stenos) K.N. Haridas and N. Vikram Nair were absorbed in Delhi Police as Stenographers and were also confirmed as Sub-Inspector (Steno) in their parent department. For considering them as Sub-Inspector (Ministerial) their options were sought as to whether they were willing to be absorbed as Sub-Inspector (Ministerial) or otherwise (Vide Annexure A-17, page 36 of Additional affidavit).

11. The applicant while working as Sub-Inspector (Steno) in the BSF was taken on deputation in the Delhi Police in the pay scale of Rs.330-560 by order dated 26.12.1984. His pay was fixed in the pay scale of Rs.1400-2300 initially but, on his absorption in the Delhi Police it was fixed at Rs.1640/-p.m. plus Rs.76/- as special pay to be absorbed in future increments with effect

from 9.3.1988 in the pay scale of Rs.1640-2900 by order dated 9.5.1988.

12. It would thus appear that the plea that some orders relating to the applicant were issued inadvertently by the Delhi Police is not convincing and that there had been instances in which Sub-Inspector (Steno) of the BSF had been permanently absorbed in the Delhi Police as Sub-Inspector (Ministerial). In the consequtus of the facts and circumstances of the case, we are of the opinion that the applicant is entitled to succeed in the present application. We, accordingly, set aside and quash the Circular dated 7.9.1990 issued by the respondents to the extent that it pertains to the inclusion of the name of the applicant in the list of Assistant Sub-Inspectors (Steno). The respondents shall fix the inter se seniority of the applicant as Sub-Inspector (Ministerial) by taking into account his substantive service in the rank of Sub-Inspector (Steno) with effect from 5.1.1976 in his parent department, i.e., BSF. They shall also consider him for the post of Inspector (Ministerial) w.e.f. the date his immediate junior Sub-Inspector (Ministerial) was so promoted in the Delhi

A

Police. The respondents shall comply with the above directions expeditiously and preferably within a period of three months from the date of receipt of this order.

There will be no order as to costs.

B.N. DHOONDIYAL  
(B.N. DHOONDIYAL)  
MEMBER (A)

27/11/82  
(P.K. KETKAR)  
VICE CHAIRMAN (J)

RKS