

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA. No. 507/ of 1990

Dated New Delhi, this the 9th day of June, 1994

Hon'ble Shri J. P. Sharma, Member (J)
Hon'ble Shri B. K. Singh, Member (A)

1. Shri B. SAHA,
S/o Shri B.K. Saha,
A-14E, MIG Flats,
Mayapuri, New Delhi-110064.
2. Shri R.K. Saran,
S/o Shri K.M. Saran,
C5-2A, Lawrance Road,
Delhi-110035.
3. Shri R.K. Bhakta,
S/o Shri Rajeshwar Bhakta,
3C/Block II/Sector II,
DIZ Area, Peshwa Road,
Gole Market, New Delhi.
4. Shri K.N. Gupta,
S/o Shri Chand Lal,
H 506, Kali Bari Marg,
New Delhi.
5. Shri N.N. Singh,
S/o Shri Musafir Singh,
C III/284, Lodi Colony,
New Delhi - 110003.
6. Shri D.C. Sorai,
C/o Shri Lachhi Chand,
234E/Pocket I,
Mayur Vihar, Delhi-110091.
7. Shri T.P. Jha,
S/o Shri Dina Nath Jha,
A 14 F, MIG Flats,
Mayapuri, New Delhi-110064.

By Advocate: Shri A. Kalia

Versus

Union of India
Through

Deputy
Supdt. of
Police,
C.B.I.,
CGO
Complex,
Block ... Applicants
No. 3,
4th Floor,
Lodi Road,
New Delhi.

... Respondents

1. The Secretary,
Deptt. of Personnel & Training,
Govt. of India, New Delhi. No. 1
2. The Director,
Central Bureau of Investigation,
C.G.O. Complex, Block No. 3,
4th Floor, Lodi Road, New Delhi. No. 2
3. Sh. A.K. Hargava, DSP, CBI,
7/2, Karmik Bhavan, Sawai Dela,
Dhanbad (Bihar). No. 3.
4. Sh. A.K. Ohri, DSP, CBI, SU,
Kitab Mahal, 3rd Floor,
Dr. DN Road, Fort, Bombay-400001. No. 4
5. Sh. S.S. Jha, DSP, CBI, SCB,
Kitab Mahal, 3rd Floor,
Dr. D.N. Road, Fort,
Bombay - 400001. No. 5

By Advocate: Shri V.S.R. Krishna

O R D E R

(Oral)

Shri J. P. Sharma, M(J)

The applicant No.1 was promoted as Deputy Superintendent of Police in CBI on 19.12.84. Applicants No.2,3,4,5,6&7 were promoted on 17.1.85, 5.2.85, 13.5.85, 30.3.85, 30.1.85 and 8.2.85 respectively. All of them were appointed on regular basis to the post 30.6.88. Respondent no.3, Shri A. K. Hargava, Respondent no.4, Shri A. K. Ohri and Respondent no.5, Shri S. S. Jha were promoted as Deputy Superintendent of Police on 12.7.88, 23.8.88 and 12.7.88 respectively. The grievance of the applicants is Respondents no.3,4&5 have been assigned seniority over the applicants. The applicants, therefore, prays for counting of their ad-hoc service and that they be given seniority over Respondents No.3,4&5.

2. The Respondents contested this application and stated that since there were no vacancies available in the promotee quota which is 30%, the applicants were appointed in the exigencies of the service purely on ad-hoc and temporary basis as per Recruitment Rules, 1963 of CBI in the vacancies either persons going on deputation or the vacancies which were reserved for direct quota 50% transfer on deputation and 20% direct recruitment. However, subsequently, these vacancies were diverted to the promotee quota sometime in 1988 and nine more vacancies occurred during that period and so the regular DPC was held in June, 1988. That DPC considered the Inspectors for promotions to the grade of Deputy Superintendent of Police and the ^{who} applicants ~~were~~ already working on ad-hoc basis, were also considered. The DPC gave the grading of 'outstanding' to the Respondents No.3,4&5 and as such in the panel, they had to be placed above the applicants.

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3. We heard the learned counsel Shri A. Kalia for the applicant and Shri V.S.R. Krishna for the respondents. Though the learned counsel for the applicant referred to a number of decisions in the OA itself of Delhi High Court as well as the Supreme Court, but those judgements are not applicable in the present case. In the cases D.R. Nim Vs. UOI AIR 1987 SC 1301, ~~in xxx xxx~~ of A. Janardhan Vs UOI AIR 1983 SC 769, ~~in xxx xxx~~ of Ashok Gulati Vs B. S. Jain 1984(4) SLR p.1, the point in issue is the promotion on ad-hoc basis which continued for years together. There was no selection for the post and as such the ad-hoc service was ordered to be counted for the purpose of seniority. In the present case, Respondents no.3,4&5 are also promotees belonging to the feeder cadre of Inspectors. It is not denied that the post of DSP is a selection post by regular DPC. Therefore, according to rules, the regular appointment can be made only when the case of the officer is recommended by DPC. While recommending the case, the DPC also considers grading given to individual officer on the basis of his service record. It is needless to say that in a selection, if a person is rated as 'outstanding', he shall be placed higher in the panel recommended by the DPC than those who have only graded as "very Good" or 'Good'. If the ad-hoc service of the applicants is taken into account, then the recommendation of the DPC shall become meaningless and thereby the performance shown in the service record of those who have done better will go unnoticed. It is not a case where promotion is effected on the basis of seniority-cum-fitness. In a selection post, a better ~~over his senior~~ graded junior can have a march ~~over his senior~~ if the is not graded likewise. Thus, we do not find any error in the recommendation of DPC.

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As stated above, according to rules, the ad-hoc service rendered by the applicant could not be taken into account while considering them for selection in Group 'B' post. Therefore, the DPC had to place the juniors above the applicants, as they (juniors) were better graded than the applicants.

4. In view of the above facts and circumstances of the case, we find no merit in this application and the same is dismissed as such, leaving the parties to bear their own costs.


(B. K. Singh)
Member(A)


(J. P. Sharma)
Member(J)

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