

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 718/1990
T.A. No.

199

DATE OF DECISION 25.01.1991.

<u>Shri Narender Singh</u>	Petitioner
<u>Shri Shyam Babu</u>	Advocate for the Petitioner(s)
Versus	
<u>Delhi Admn. through Chief</u>	Respondent
<u>Secretary & Others</u>	
<u>Mrs. Avnish Ahlawat</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? */ No*
4. Whether it needs to be circulated to other Benches of the Tribunal? */ No*

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

The applicant, who has worked as Assistant Sub Inspector in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) To set aside and quash the impugned order dated 26.3.1990 in so far as it relates to him; and
- (ii) to direct the respondents to bring his name to List E-II(Ex) for Sub Inspector in Delhi Police with effect from 3.3.1990 and to promote him with effect from that date.

2. The pleadings in the case are complete. The application has not been admitted. We feel that the

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application could be disposed of at the admission stage itself and we proceed to do so.

3. The applicant joined Delhi Police as Constable on 1.11.1965. He was promoted as Head Constable in March, 1971. In April, 1983, the applicant was appointed as Assistant Sub Inspector in Delhi Police on officiating basis. In January, 1987, he was posted as ASI in Police Station, Sadar Bazar, Delhi. It was alleged against the applicant that he took a Scooter No.DHH 7581 Bajaj which was stolen ~~in~~ ^{Vide} [FIR No.708 dated 27.9.1980 under Section 379 IPC P.S. Kamla Market, Delhi) belonging to Shri S.K. Sahni, son of Shri Jagan Nath Sahani resident of A-3, Punjab Estate College Road, Delhi from Head Constable (HC) Lal Singh of PS Mandir Marg for disposal with malafide intention. It was alleged further that the applicant handed over the said scooter to one Balram of Karol Bagh who also handed it over to the owner of the workshop in Karol Bagh for repairing and from whose possession the scooter in question was recovered.

4. On these allegations a departmental enquiry was conducted and the Inquiry Officer submitted his findings dated 11.10.1986 holding the applicant guilty of the charge. On the basis of the aforesaid departmental enquiry, the Addl. Deputy Commissioner of Police, North District, Delhi vide order dated 15.1.1987 forfeited the applicant's two years approved service temporarily for a period of one year. The pay of the applicant was also reduced by two stages from *On*

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Rs.1,350/- to Rs.1,320/- for a period of one year with effect from 9.1.1987. It was further ordered that the applicant would not earn increment of pay during the period of reduction and on expiry of this period, the reduction would not have the effect of postponing his future increment of pay.

5. According to the applicant, the aforesaid order dated 15.1.1987 clearly shows that it was to remain in operation only for a period of one year with effect from 15.1.1987. As such, the effect of punishment order came to an end on 15.1.1988.

6. By order dated 29.3.1989, he was confirmed as ASI(Ex.) with effect from 1.9.1988. The Deputy Commissioner of Police, Headquarter-I, Delhi by an order dated 29.8.1989 deputed 49 officers for Upper School Course with effect from 4.9.1989. The name of the applicant was not included in this order of 29.8.1989. The juniors of the applicant starting from S.No.42 to 49 were deputed for training.

7. Thereafter the Deputy Commissioner of Police, Headquarter-I, Delhi by another order dated 6.3.1990 brought the names of — many officers who had passed the Upper School Course on List E-II(Ex.) with effect from 3.3.1990 in terms of rules 16(1) of Delhi Police (Promotion and Confirmation) Rules, 1980. The applicant submits that his name ought to have been shown below Mr. Bhupinder Singh (513-D) and above Mr. Om Prakash

(185-D) as Mr. Om Prakash is junior to the applicant as ASI(Ex.).

8. The Dy. Commissioner of Police, Headquarter-I, Delhi by another order of 6.3.1990 promoted 39 officers as Sub Inspector (Ex.) in Delhi Police with effect from 3.3.1990. The name of the applicant was not included in the said list.

9. On 26.3.1990, the respondents informed the applicant that his name could not be approved for the next higher promotion of Sub Inspector (Ex.) in Dehi Police due to his unsatisfactory record of service.

10. The applicant has contended that when the Departmental Promotion Committee met for approving the names of the officers for promotion as Sub Inspectors(Ex.) in Delhi Police with effect from 3.3.1990, there was nothing adverse against the applicant, that the contention that his name could not be approved for promotion as Sub Inspector(Ex.) due to the alleged unsatisfactory record of service, is arbitrary, illegal and without any material on record to this effect and that the Departmental Promotion Committee as well as the respondents have taken into consideration extraneous material while holding the applicant unfit for promotion as Sub Inspector(Ex.) with effect from 3.3.1990.

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11. The respondents have stated in their counter-affidavit that all the major/minor punishments awarded to an individual have been recorded in the Character Roll of the individual concerned in accordance with the rules.

Character Thus, having been recorded in the Character Roll it cannot be overlooked or expunged automatically after a particular period. There fore, it is incorrect to presume that there is nothing adverse against the applicant after 16.1.1988. So far as the promotion is concerned, the overall assessment and entire service record of the individual in the feeder post is taken into account.

12. The respondents have submitted that on the recommendation of DPC held on 13.7.1989, the counterparts of the applicant were deputed for Upper School Course. Since the said DPC did not approve the name of the applicant for admission to list E-I(Ex.) due to his indifferent service record, he was not deputed for the said course. His name was again considered along with others, by the DPC held on 14.3.1990, but the applicant again was not found fit by the DPC for admission of his name to promotion list E-1(Ex.) due to his unsatisfactory record of service.

13. The respondents have contended that once a punishment is recorded in the Character Roll of the individual, the same could not be overlooked or expunged after a particular period. According to them, in a case of promotion, the entire service record of the feeder post

held by the individual is taken into account, whereas in confirmation cases, only the record for probation period is taken into account.

14. We have gone through the records of the case carefully and have considered the rival contentions. The promotion of an officer of the Delhi Police is governed by the provisions of the Delhi Police (Promotion and Confirmation) Rules, 1980. Confirmation is on the basis of seniority and subject to an officer being found fit on the basis of his two years service records immediately preceding the date of confirmation. In the case of promotion, the service records of the last five years are taken into account. The Confidential Reports are categorised into 'A', 'B' or 'C' Reports. There is an element of selection involved in the matter of promotion. This is evident from the provisions of Rule 16 of the Delhi Police (Promotion and Confirmation) Rules, 1980 which, inter alia, reads as under:-

*16. List 'B'-(i) List 'E' (Executive) Confirmed Assistant Sub-Inspectors who have put in a minimum of 6 years service to this rank shall be eligible for List E(1). The selection shall be made on the basis of the recommendation of the Departmental Promotion Committee on the basis of evaluation system based on (i) service record (ii) seniority (iii) annual confidential reports (iv) professional tests comprising of (a) Physical training and Parade (b) Delhi Police Act, Rules/Regulations and Manual (c) police practical work, (d) Law (e) General Knowledge (f) Professional courses and viva-voce. The list shall be drawn up from amongst qualified candidates in order of their seniority keeping in view the likely vacancies in the rank of Sub-Inspector (executive) in the following one year. The selected Asstt. Sub-Inspectors shall be sent for training in the Upper School Course at PTS and on successfully completing the same

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their names shall be brought on List 'B' (Executive II) in order of seniority in list E-1 for promotion to the rank of Sub-Inspector as and when vacancies occur".

15. In adjudging the suitability of a person for promotion, the Departmental Promotion Committee may consider his service records including the punishments imposed on him which are reflected in the annual confidential records for the last five years. The mere fact that the period during which the penalty imposed was to be in force had expired does not mean that the penalty had been wiped out from the records altogether. There is no rule or instruction in support of the contention advanced by the applicant in this regard.

16. In the light of the foregoing discussion, we see no merit in the present application and the same is dismissed at the admission stage itself. There will be no order as to costs.

Dulhara
(D.K. CHAKRAVORTY)

MEMBER (A) 27/1/891

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25/1/81

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