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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

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OA. No. 801 of 1990

Dated New Delhi, this the 21st day of July, 1994

Hon'ble Shri J. P. Sharma, Member (J)

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

Shri Prabhu Dayal
R/o H.No.569/18, OM Nagar
Gurgaon (Haryana)

... Applicant

By Advocate: Shri G. R. Matte

VERSUS

The Commissioner of Police
Police Headquarters
Indraprastha Estate
NEW DELHI

... Respondent

By Advocate: None

(Shri Sukhbir Singh, S.I.,
Departmental Representative)

O R D E R
(Oral)

Shri J. P. Sharma, M(J)

The applicant belongs to ST category and has since been working as A.S.I. in Delhi Police. He is aggrieved by order dated 1.5.89 whereby his appeal against admission of names to promotion list 'E' (Ministerial) (promotion to the post of Sub Inspector) ignoring the name of the applicant and inclusion of the names of persons junior to him, was rejected.

2. The applicant, therefore, filed this OA for the grant of following reliefs:-

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"(1) This Hon'ble Tribunal may be pleased to declare that the applicant was entitled to the rank of S.I., against the vacancy reserved for Scheduled Tribe in the year 1981(w.e.f. 26.12.1981) when 8 vacancies were filled up by promotion of general category persons at the time of filling of the vacancies by promotion vide order dated 1.11.1985(Annexure-I) as this Hon'ble Tribunal deem fit, and that the applicant shall be deemed to be so promoted with consequential benefits, in the matter of seniority, pay fixation, payment of arrears of pay, confirmation and promotion.

(2) Any other relief as this Hon'ble Tribunal may deem fit in the facts and circumstances of the case."

2. We are considering the case of the applicant on the basis of the counter filed by the respondents. We have also perused the rejoinder filed by the applicant.

3. Shri G. R. Matta, counsel appears for the applicant and Shri Sukhbir Singh, SI., appears on behalf of the respondents. Shri Sukhbir Singh prays for time on the ground that since the panel of lawyers has been changed, another lawyer has to be given the brief. However, in the circumstances of the case, we do not find that the adjournment can be granted.

4. We heard Shri Matta, counsel for the applicant, at length. We find that the applicant has been punished by a number of minor punishments. -

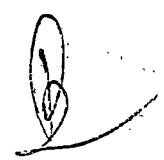
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5 censures awarded to him during the year 1980-83 (i.e. 1980-81, 1981-82 & 1982-83), 2 years' approved service was forfeited permanently on 28.9.84, one year's approved service was also forfeited permanently on 12.10.84, and adverse ACR for the period from 1.4.83 to 31.3.84 was also recorded. In view of this, the applicant was not recommended by the DPC for empanelment in the panel declared on 1.11.85. Subsequently, a DPC was held in 1988, but again the applicant was found unfit as during the period from 14.10.85 to 31.5.88, his three years' approved service was forfeited permanently on 23.9.87. This was upheld when the appeal and revision of the applicant were rejected.

5. However, Shri Matta, counsel for the applicant, gave a statement at the Bar that the punishment of forfeitures of three years' approved service has since been quashed by this Tribunal which was assailed by the applicant, but the order has been passed recently in 1994, though a copy of that order is not available. But in case punishment has been quashed which was imposed on the applicant of forfeiture of three years' approved service, and, if the DPC had considered that punishment in declaring the applicant unfit for promotion to the post of S.I. in the Delhi Police, the applicant has a right to be reconsidered by Review DPC after ignoring that punishment which has been set aside by the judgement of the Tribunal as stated above.

6. In view of the above facts and circumstances of the case, the application is dismissed as such with the liberty to the applicant to make a representation, if so advised, to the respondents for considering his case for enlistment in list 'E' for promotion to the post of S.I.(Ministrial) after ignoring the punishment awarded on 23.9.87 which has been quashed by the order of the Tribunal sometime in 1994. Parties are left to bear their own costs.



(B. K. Singh)
Member (A)



(J. P. Sharma)
Member (J)

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