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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1204/1991

New Delhi this the 10th Day of ~~September~~ ^{October}, 1995.

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

Hon'ble Shri R.K. Ahooja, Member (A)

Shri Kanwar Singh,
No. 512, Sec
Security Guard,
New Delhi

Applicant

(By Advocate: Shri M.P. Raju)

Vs

1. Delhi Administration through its,
Chief Secretary, Old Secretariat,
Rajpura Road,
Delhi.

The Commissioner of Police,
Police Headquarters,
I.P.Estate,
New Delhi-110 002.

Respondents

(By Advocate: Shri O.N. Trishal)

O R D E R

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

The dispute involved in this case is about the date of confirmation of the applicant as a Constable in Delhi Police. The applicant was enrolled as a Constable in Delhi Police on 1.4.1972. He was declared quasi permanent with effect from 1.10.1975 by an order dated 8.4.1976. By an order dated 23.5.1981, the respondents notified that constable who had been confirmed could appear for the promotion test and the applicant was not informed ^{of} by his date of confirmation, on his appealing to his superiors, the Additional Commissioner of Police (Traffic) sent an extract of the applicant's records in which the date of his confirmation was shown as 15.2.1976.

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The applicant was allowed to appear for promotion test and he was placed at Serial No. 515 on his qualifying the test. At No. 516 was the name of Shri Ram Shukla Prasad who was enrolled on 4.4.1972, 4 days after the enrollment of the applicant. However by order dated 12.6.1981, the applicant was informed that he was confirmed with effect from 1.5.1981 only. Though the applicant made representation, the same was rejected and persons junior to the applicant were sent for training. Thereafter pursuant to one of the *representations of* the applicant the respondents cancelled the order issued by Deputy Commissioner of Police (Traffic) Delhi in regard to the confirmation of the applicant as Constable with effect from 1.5.1981 and confirmed him in the rank of Constable with effect from 30.10.1976. Dissatisfied with that the petitioner made further representations claiming that he should have been confirmed with effect from 15.2.1976 on which ^{delhi} many of his juniors were confirmed. In response to the representation dated 22.9.1986, the respondents informed the petitioner that as there was a censure order against him during the period of probation, he was confirmed as a constable later. The applicant made a representation on 28.9.1988 pointing out that there was no such censure awarded to him and that he was never informed of any such censure, ~~the applicant made a representation on~~ ~~28.9.1988~~. Thereafter the DCP issued an order dated 14.2.1989 by which the order dated 11.4.1984 of the Police Headquarters as far it relates to the confirmation of the applicant in the rank of constable with effect from 30.10.1976 was cancelled

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and he was confirmed in the rank of Constable with effect from 15.8.1976. Claiming that he should have been confirmed with effect from 15.2.1976, the applicant made an appeal which was rejected by the respondents. Aggrieved by the fact that juniors to the applicant have been sent for training for promotion as Assistant Sub-inspector, the applicant has filed this application praying that order dated 14.2.1989, Annexure I, may be set aside and that the respondents may be directed to confirm him as Constable with effect from 1.4.1974. and that the respondents be directed to grant him consequential benefits of promotion, arrears of salary and allowances etc.

2. We are told that during the pendency of the application, the applicant has been sent for training and has been appointed as Assistant Sub-inspector. The sole question that will have to be determined is whether the confirmation of the applicant has to be ante-dated and if so to what date and what consequential relief the applicant is entitled to. The respondents in their reply have stated that there was no censure awarded to to the applicant during the period of his probation as Constable and that he was confirmed with effect from 15.8.1976 as he was passed over for confirmation for a period of six months on account of indifferent service record. We have heard the learned counsel on either side and perused the material on record. The applicant has, in paragraph 8, made a prayer that he may be declared to have been confirmed with effect from 1.4.1974 probably for the

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reason that he was enrolled as a Constable on 1.4.1972 and that the period of probation prescribed as two years but there is no allegation in the application that any person who has been enrolled along with the applicant or subsequent to him has been confirmed immediately on the expiry of the period of two years. The demand of the applicant in all his representations has been that he is entitled for confirmation as Constable with effect from 15.2.1976 as his juniors and other colleagues were confirmed on that date. In the body of the application also the applicant's claim is that he is entitled to be confirmed on 15.2.1976. Therefore, the prayer that the applicant is entitled to be confirmed with effect from 1.4.1976 has no basis at all.

3. The learned counsel of the applicant with considerable tenacity argued that there has not been any consistent case for the respondents in regard to the date on which the applicant was to be confirmed as Constable. He invited our attention to the order of the respondents dated 12.6.1981 by which he confirmed as Constable with effect from 1.5.1981, the order dated 11.4.1984 (Annexure VI) by which the order dated 1.5.1981 was cancelled and the applicant was confirmed in the rank of Constable with effect from 30.6.1976 and the order dated 14.2.1989 (Annexure A-1) by which the order dated 11.4.1984 confirming the applicant as Constable with effect from 30.10.1976 is cancelled and the applicant is confirmed as Constable with effect from 15.8.1976. The learned counsel argued that the above order would

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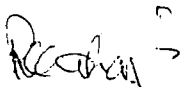
demonstrate that the respondents did not take any timely action to pass order of confirmation of the applicant and that the various dates were arrived at by the respondents arbitrarily and without any application of mind. He invited our attention to the allegation in the application that in respect of one of his representations dated 22.9.1986 the respondents have informed him that his reconfirmation was the result of censure awarded to him during the period of his probation and that as a matter of fact he was not awarded any such censure. In reply statement of the respondents, the allegation that he was informed that the delay in his confirmation was owing to the censure awarded to him was not denied but it was only stated that the applicant was not awarded any censure as per his service record. It is undisputed that the applicant was declared quasi-permanent with effect from 1.10.1975 by an order dated 8.4.1976 if he was found fit for declaration for quasi permanency, by the order dated 8.4.1976 with effect from 1.10.1975, it cannot be held that his service record was bad or indiffernt making him ~~for~~ ineligible for confirmation with effect from 15.2.1976, the date on which is juniors ^{with} confirmed. Further, it is evident that the respondents had not passed order of the confirmation of the applicant at the appropriate time because it appears that the first order of confirmatiion in respect of the applicant was passed only on 12.6.1991 confirming ^{him} with effect from 1.5.1981 that the second order cancelling that and confirming the applicant with effect from 30.10.1976 was passed

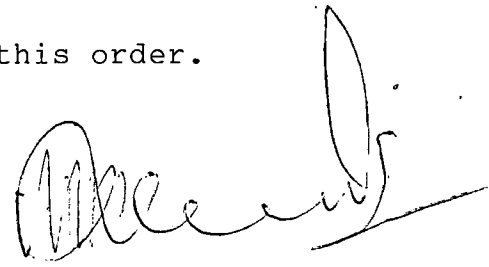
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on 11.4.1984 and the impugned order cancelling the order dated 11.4.1984 and confirming the applicant in the rank of constable with effect from 15.8.1976 was passed on 14.2.1989. The respondents have also not made available the service record to show that a decision was taken by the competent authority to pass over the applicant for confirmation for a period of six months from 15.2.1976. Since it is evident that the respondents have not passed order on confirmation of the applicant in time, and as the respondents have not made available any material to show that the confirmation of the applicant as a constable was passed over for a period of six months from 15.2.1976, we are not in a position to accept the contention of the respondents that the applicant was rightly confirmed with effect from 15.8.1976.

4. In the result the application is allowed in part. The respondents are directed to issue order confirming the applicant as Constable with effect from 15.2.1976 and thereafter adjust his seniority and fix his pay in the respective ranks accordingly. The re-fixation of pay, if any, on the basis of the above direction shall be notional and the actual monetary benefits will be given to him only from the date of ^{filing of} this application. The above direction shall be complied with within a period of two months from the date of communication of a copy of this order.


(R.K. Ahooja)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

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