

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH
NEW DELHI.

O.A. No. 1444 of 1991.

New Delhi, this the 26th day of July, 1994.

Hon'ble Mr Justice S.K.Dhaon, Acting Chairman.

Hon'ble Mr B.N.Dhoundiyal, Member(A)

Sunder Singh, Constable No. 11413/DAP
1077/NE R/O Quarter/Barrack
Police Station Seemapuri, Delhi. Applicant.
(through Mr Shyam Babu, Advocate).

vs.

1. The Commissioner of Police Delhi,
Delhi Police Headquarters,
M. S. O. Building, I. P. Estate,
New Delhi.
2. Additional Commissioner of Police
(Administration) Delhi.
Delhi Police Headquarters,
M. S. O. Building, I. P. Estate,
New Delhi.
3. Deputy Commissioner of Police(HQRS-I)
Delhi Police Headquarters,
M. S. O. Building, I. P. Estate,
New Delhi. Respondents.
(through Mr Jog Singh, Advocate).

Order(oral)

Justice S.K.Dhaon, Actg. Chairman

In substance, the order dated 15.11.1990,
passed by the Dy. Commissioner of Police, Delhi
Police Headquarters is being impugned in the
present application.

2. A counter-affidavit has been filed
on behalf of the respondents. The undisputed
facts, which have emerged from the exchange of
affidavits are these. On 24.6.1980, the
applicant was recruited as Constable in B.S.F.
On 1.1.1983, he was confirmed as Constable in
that Force. On 8.1.1986, he came on deputation
in Delhi Police. On 7.3.1989, he was absorbed
in the Delhi Police. On 31.8.1989, a test was

Shy

in the B.S.F. is 1.1.1983 and that, therefore, is the

Shy

:-2:-

held. On 15.2.1992, the result of the test was declared and it was found that the applicant stood qualified for being promoted. On 15.11.1990, the impugned order was passed stating therein, inter alia, that the test of the applicant stood cancelled as he did not fulfil the eligibility test on 31.8.1989.

3. The rule, which is relevant is Rule 12 of the Delhi Police(Promotion and Confirmation) Rules, 1980 (the Rules). The said Rule, inter alia, provides that confirmed constables having a minimum of 5 years service shall be eligible for consideration. The short question, therefore is, whether the petitioner was on 31.8.1989 entitled to compute the period of 5 years from 1.1.1983 when he was confirmed as Constable in B.S.F. The stand taken by the respondents appears to be that the period of five years would be counted from 7.3.1989 when the applicant was absorbed with Delhi Police. The controversy appears to have been answered by a Division Bench of this Tribunal in O.A.No.470 of 1991 decided on 2.3.1993. There, the controversy was the determination of the seniority of the Sub Inspector, who was initially recruited in the B.S.F. Relying upon the judgment of the Supreme Court in the case of K.Madhavan & another vs. Union of India & others (AIR 1987 SC 2291), the Division Bench made certain observations. The observations, as material, are these:

"..... There is no dispute that the petitioner was appointed as Sub Inspector with the Border Security Force w.e.f. 1.10.1984 on a substantive basis. That is the date which should be taken into account for determining the seniority of the petitioner...."

Here, we have already indicated that the date of confirmation of the applicant as Constable in the B.S.F. is 1.1.1983 and that, therefore, is the

date of his substantive appointment as Constable. Five years, therefore, should be computed from that day. Once that is done, the impugned order becomes unsustainable. It has to be quashed.

4. This application succeeds and is allowed. The impugned order dated 15.11.1990 is quashed. The applicant shall be deemed to have been duly eligible to appear in the test held on 31.8.1989 and if he qualified that test, his case should be considered for promotion on merits and in accordance with law. It is stated that in fact, the name of the petitioner was brought in the promotion list. If that be so, his name shall continue in the promotion list.

5. There will be no order as to costs.


(B.N.Dhondiyal)
Member(A)


(S.K.Dhaon)
Actg. Chairman.

/sds/