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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./T.A. No. 1532/91 /19

Decided on: 1.3.96

Ram Chander

..... APPLICANT(S)

(By Shri

Shyam Babu

Advocate)

VERSUS

Commr. of Police, Delhi & Anr.

..... RESPONDENTS

(By Shri Girish Kathpalia

Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI/SMT.~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

S.R. Adige
(S.R. ADIGE)
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No. 1532/91.

New Delhi: this the 1st March, 1996.

Ram Chander

S/o of Shri Phool Singh,
HC No. 7110/DAP, R/o J-31, old Seema Puri,
DelhiApplicant.

By Advocate Shri Shyam Babu.

Versus

1. The Commissioner of Police, Delhi,
Delhi Police Headquarters, MSO Building,
IP Estate,
New Delhi.
2. The Dy. Commissioner of Police (Headquarters),
Delhi Police Headquarters, MSO Building,
New Delhi.Respondents.

By Advocate Shri Girish Kathpalia.

HON'BLE MR. S.R.ADIGE, MEMBER (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J).

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

In this application Shri Ram Chander has impugned the order dated 12.6.91 (Annexure-A) removing the applicant's name from the Promotion List 'A' (Executive) onto which he was included on 12.11.87, and has prayed for a direction that his name be deemed to be continuing on the said list from 13.11.87 and he be regularised in accordance with the Delhi Police (Promotion & Confirmation) Rules.

2. The applicant entered service as a Constable in Delhi Police and was promoted as Head Constable (Executive) on out of turn and adhoc basis w.e.f.
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13.2.87 under Rule 19(ii) Delhi Police (Promotion & Confirmation) Rules for exceptional gallantry and devotion to duty. Thereafter his name was brought onto promotion list 'A' w.e.f. 13.11.87. Subsequently a major punishment of withholding annual increments for 3 years was imposed upon him by order dated 9.5.89 consequent to a departmental proceeding upon it being proved that he had stopped Rajasthan Roadways bus and demanded money from the driver on 24.4.89. Thereupon, a show cause notice was issued to him for removing his name from promotion list 'A' in accordance with Rule 7(ii) Delhi Police (Promotion & Confirmation) Rules read with para 4 of S.O.No.91/89 and upon finding his reply unsatisfactory the notice was confirmed by the DCP. HQ (I) on the approval of the Addl.CP (Admn) vide impugned order dated 12.6.91.

3. The first ground taken by applicant's counsel Shri Shyam Babu is that the applicant had been brought onto promotion list 'A' and also promoted as Head Constable (Executive) in terms of Rule 19(ii) Delhi Police (Promotion & Confirmation) Rules

the respondent No.1 the Commissioner of Police and could not be removed from that list by a junior authority namely Respondent No.2, the Dy.Commissioner of Police who had signed the order. The respondents in their reply have stated that the DCP took the approval of the Addl. Commissioner of Police before issuing the impugned order and there is no specific denial to this averment in the applicant's rejoinder

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to the amended OA. Under Rule 8, Delhi Police (Promotion & Confirmation) Rules ¹⁹⁸⁰ /a DPC headed by a Dy. Commissioner of Police is competent to recommend persons onto Promotion List 'A', and in the present case, as the Addl. Commissioner's approval was obtained to the removal of applicant's name from that list, before the DCP issued the impugned order, no irregularity has been committed. This ground therefore fails.

4. Secondly it has been urged that under Rule 5(ii) Delhi Police (Promotion & Confirmation) Rules, 1980 the applicant had completed the 3 years probationary period and must be deemed to have been confirmed. Certain CAT judgments have been relied upon, but the law on this point has been settled by the Hon'ble Supreme Court in Jai Kishan Vs. Commissioner of Police and another- 1995(31) ATC 148 wherein it has been held that confirmation is not automatic, and successful completion of probation is a condition precedent for confirmation. As there is no such order confirming the applicant after an assessment that the applicant had successfully completed his probation, this ground also fails.

5. Thirdly, it has been argued that the amendment to Rule 7(ii) Delhi Police (Promotion & Confirmation) Rules ¹⁹⁸⁰ /is being applied retrospectively which is illegal. This argument is misconceived, because the above amendment provides for the conduct and efficiency of men on promotion list to be watched and for their names to be removed from that list if found guilty and misconduct etc., after giving a show cause notice, ^{which} ~~was~~ ^{is} admittedly incorporated ⁱⁿ the rules on 12.8.87, while the applicant was brought onto

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promotion list 'A' w.e.f. 13.11.87 (vide Sl. No. 17 of Para 2 of H.Q. order No. 26351-425/ SIP(PHQ) dated 13.11.87) which the applicant himself admits in paragraph 2 of his representation dated 1.7.91 addressed to Commissioner of Police.

6. No other grounds were pressed.

7. In the result the OA fails and is dismissed.
No costs.

A. Veda Valli

(DR. A. VEDAVALLI)
MEMBER (J)

S. R. Adige
(S. R. ADIGE)
MEMBER (A).

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