

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.NO.OA 1542/91

Date of decision: 19.2.92

Shri Rameshwar Dayal

...Applicant

Vs.

Delhi Administration & Another

...Respondents

For the Applicant

...Shri N. Safaya,
Counsel

For the Respondents

...Shri M.K. Sharma,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOONDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*.
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

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

The applicant who is working as a Constable in Delhi Police filed this application under Section 19 of the Administrative Tribunals Act, 1935 praying for directing the respondents to include his name in promotion List 'A' and/or restore his name to promotion List 'A', for directing them to send him to Lower School Course Training and to protect his seniority in the List 'A' and 'B'.

2. The applicant was appointed as Constable under Delhi Police on 2.6.1964. He was eligible for being brought on

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Promotion List 'A', ^{and} appeared in the qualifying examination for the same. The examination was held on the basis of the application invited from the Delhi Police Constables who were eligible for being brought on Promotion List 'A'. The applicant appeared in the examination and passed vide result No.11442 - 513-SIP PHQ dated 25.4.1990 on the Roll No.5379. All the candidates who qualified the examination are brought on Promotion List 'A' and thereafter sent for training in Lower School Course which is to be completed for being included in promotion List 'B' for the promotion to the rank of Head Constable. The applicant was not sent for training on the ground that he was not confirmed in service at the time he appeared in the examination. He has contended that after the completion of 3 years in service from the date of initial appointment a Constable shall be deemed to have been confirmed. On the date of the examination, he had completed more than five years.

3. After the examination, the applicant was declared successful and became entitled to be brought on promotion list 'A' and thereafter for being sent for Lower School Course Training. That was not done.

4. According to the respondents, for the purpose of promotion list 'A' test the minimum qualification for a confirmed constable is that he should have put in at least 5 years of service as confirmed constable. Accordingly, for the conduct of the promotion list 'A' test in the year 1989 a DPC was constituted under the Chairmanship of Shri Puram Singh the then Principal PTS, Delhi who was later on succeeded by Shri Kartar Singh, Additional Commissioner of Police (Ops.) and then Shri T.R. Kakkar, Additional C.P.(Ops.) on the transfer of Shri Kartar Singh. The last date for computation of period of service for the eligibility of the confirmed constables was fixed as 31st August, 1989. Applications were invited from those constables also who have not been confirmed as such and otherwise have put in 5 years of service as Constable. All such Constables who could not be declared as confirmed for want of permanent vacancies but had completed 5 years service in Delhi Police were allowed provisionally to appear in the promotion list 'A' test, subject to the condition that their results will be announced only on their having been declared confirmed prior to the last date of eligibility, i.e., 31st August, 1989. The applicant has completed 5 years service but he had not been declared confirmed. His confirmation which was due with effect from 9.5.1989 could not be decided by the competent authority because of his indifferent service

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records. His name could not be brought on the promotion list 'A' due to his non-confirmation in the rank of constable which is an essential condition as per Rule 12(1) of Delhi Police (Promotion & Confirmation) Act, 1980.

5. We have gone through the records of the case carefully and have considered the rival contentions. In our opinion, the applicant having completed 3 years of service should be deemed to be a confirmed employee in view of the provisions of Rule 5(e) of the Delhi Police (Appointment & Recruitment) Rules, 1980, which reads thus:

"5(e)(i) All direct appointment of employees shall be made initially on purely temporary basis. All employees appointed to the Delhi Police shall be on probation for a period of two years.

Provided that the competent authority may extend the period of probation but in no case shall the period of probation extend beyond three years in all.

(ii) The services of an employee appointed on probation are liable to be terminated without assigning any reason.

(iii) After successful completion of period of probation, the employee shall be confirmed in the Delhi Police by the competent authority, subject to the availability of permanent post".

6. In view of the above provisions, the applicant shall be deemed to have been confirmed. The application is, therefore, allowed and the same is disposed of with the following orders and directions:-

(i) The respondents are directed to include the name of

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the applicant in Promotion List 'A' and/or restore his name to Promotion List 'A'.

(2) The respondents are directed to send the applicant for Lower School Course Training along with the next batch of candidates. He will be entitled to his due seniority, in the List 'A' and 'B'.

(3) There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

P. K. Kartha
19/2/82
(P.K. KARTHA)
VICE CHAIRMAN(J)