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In the Central Administrative Tribunal  
Principal Bench, New Delhi.

Regn. No. OA-1575/91

Date: 22.1.1993.

Shri Hukam Singh Saini ..... Applicant

Versus

Delhi Admn. & Ors. .... Respondents

For the Applicant ..... Shri Shyam Babu, Advocate  
For the Respondents ..... Shri Ajay Aggarwal, Advocate  
CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)  
Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the judgement? *Yes*
2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice-Chairman)

The applicant, who is working as Sub-Inspector in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:-

- (i) To direct the respondents to bring his name on Promotion List 'F' (Executive) w.e.f. 28.8.86; and
- (ii) alternatively, direct the respondents to hold a fresh D.P.C. for considering his case for promotion to List 'F' (Executive) and direct them further to place him above Shri Ram Nath, serial No.14.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant

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joined Delhi Police as Sub-Inspector directly on 16.10.69. He was made quasi-permanent on 16.10.1972. He was prosecuted in the Criminal Court on the basis of the allegations of corruption and abusing the official position. It was alleged that on 11.3.1981, he demanded and accepted Rs.400/- as illegal gratification from Shri Babu Lal Gautam for showing him a favour by not arresting him in FIR-19/80 under Section 307/34, 353 and 186 I.P.C. In this criminal case, he was honourably acquitted by the criminal Court. Thereafter, the respondents ordered departmental inquiry against him on 10.3.1983 on the basis of some charges on which he was honourably acquitted by the Criminal Court.

3. The applicant made a representation to the Additional Commissioner of Police on 5.5.1983 against the initiation of the aforesaid departmental inquiry. He had filed a writ petition in the Delhi High Court in 1984 against the order dated 10.3.1983, initiating the departmental proceedings (CPW-3055/84). The High Court had granted stay against the initiation of such proceedings. On the constitution of this Tribunal, the said writ petition was transferred to it.

4. In 1983, the applicant was confirmed as Sub-Inspector with retrospective effect from 3.7.1975. According to him, he ought to have been confirmed as Sub-Inspector w.e.f. 22.5.1974.

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5. The applicant has stated that the respondents, by order dated 28.8.1986, promoted his juniors/batchmates to the post of Inspector w.e.f. 20.8.1986. He submits that his name ought to have been placed above Shri Ram Nath at serial No.14 in the order dated 28.8.1986 as the said person was junior to him.

6. During the pendency of the departmental proceedings, a D.P.C. met in 1987 to consider the case of the applicant for the post of Inspector. The applicant has stated that since the departmental proceedings were pending against him, the decision of the D.P.C. was kept in a sealed cover.

7. The applicant has relied upon the judgement of this Tribunal dated 30.4.1987 in T-1053/85, whereby the Tribunal set aside the departmental inquiry which was initiated against the applicant by order dated 10.3.1983. The Tribunal found the initiation of such an inquiry on the charges on which he was acquitted by the Criminal Court, as illegal.

8. By order dated 30.6.1987, the Deputy Commissioner of Police dropped the departmental enquiry against the applicant in compliance of the judgement of the Tribunal dated 30.4.87. Thereafter, the applicant made a representation to the Addl. Commissioner of Police on 1.6.1987 for granting seniority to him from 22.5.1974 and announcement of the result which was kept in a sealed cover by the D.P.C. held in 1987. By order dated 24.7.1987, he was informed that the sealed cover in respect of him, had been opened and he was declared unfit by the D.P.C.

9. The applicant has argued that the D.P.C. considered his case for promotion to the next higher post of Inspector during the pendency of the departmental inquiry initiated against him. In 1988, he filed OA-1158/88 in the Tribunal. In the said O.A., he had sought for a direction to the respondents for placing him in the Promotion List 'F' after giving him due seniority above his next junior and also promotion to the post of Inspector from the date his next junior was promoted. By judgement dated 3.1.1991, the Tribunal held that the applicant shall be confirmed w.e.f. 22.5.1974 and the seniority list dated 7.12.1984, shall be amended and arranged accordingly by placing the applicant at the proper place. The Tribunal disallowed the relief for quashing the order dated 24.7.1987 for promotion as Inspector.

10. The applicant again made a representation on 17.1.1991 to the Additional Commissioner of Police requesting that in view of the judgement of the Tribunal dated 3.1.1991, he should be confirmed w.e.f. 22.5.1974 and that he should be promoted to the rank of Inspector, according to his seniority. The respondents did not give any reply to the said representation.

11. The applicant has stated that pursuant to the judgement of the Tribunal dated 30.4.1987, they have passed an order on 11.3.1991 confirming him as Sub-Inspector w.e.f. 22.5.1974. He has, however, not been promoted as Inspector in the Delhi

Police on the basis of the said confirmation. According to him, several officers who were given confirmation w.e.f. 22.5.1974, have been promoted to the rank of Inspector although they are having worse records than the applicant. He has given the names of such officers in the grounds to the application. The respondents have not specifically controverted the same in their counter-affidavit.

12. According to the respondents, the name of the applicant has been transferred from the 'Agreed List' to the 'Secret List' of officers of doubtful integrity for a period of three years vide Office Memorandum dated 29.8.1989. He was again placed under suspension w.e.f. 14.11.1990 and was reinstated w.e.f. 17.12.1990 without prejudice to the departmental action wherein his conduct was censured vide order dated 26.7.1991. As a result of ante-dated confirmation of the applicant, he became eligible for consideration of his name for admission to Promotion List 'F' w.e.f. 28.8.1986, the date on which his immediate junior and immediate senior were admitted to the said List. In the subsequent selections on 16.2.1987, 23.5.1988 and 20.2.1989 for List 'F', the result of the applicant was kept in a sealed cover as he was facing two departmental enquiries. On finalisation of the departmental enquiries, the case for opening the sealed covers as well as to consider him for admission to List 'F' w.e.f. 28.8.1986, was considered by a review D.P.C. and ultimately it was

decided to wait till such time as his name is removed from the Secret List notwithstanding his application dated 17.1.1991.

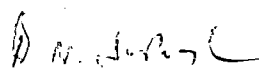
13. In Jagdish Chand Vs. Union of India & Ors., 1989 (11) A.T.C. 418, the Tribunal has considered the question whether a Police Officer can be denied promotion on the ground that his name figures in a secret list of names of persons of doubtful integrity. The Tribunal observed that if the adverse remarks or material is of such a nature that departmental/criminal proceedings are justified on that basis, such proceedings should be initiated against the officer concerned. Denial of promotion on the ground that his name figures in the secret list of officers having doubtful integrity, was to be held ~~to be~~ legally not sustainable. The Tribunal, therefore, directed the respondents to constitute a review D.P.C. to consider the suitability of the applicant to be brought on Promotion List 'F', ignoring the fact that his name exists in the Secret List of officers having doubtful integrity and if he was found suitable, promote him as Inspector of Police at his due place of seniority.

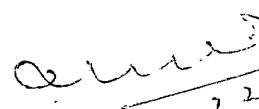
14. In our opinion, the respondents should have constituted a review D.P.C. after the Tribunal delivered its judgement on 30.4.1987 setting aside the departmental inquiry initiated against the applicant by order dated 10.3.1983 and the Tribunal held by its judgement dated 3.1.1991 that the applicant shall

be confirmed w.e.f. 22.5.1984. We see no justification in law to take into account the inclusion of the name of the applicant in the so-called Secret List and to deny promotion to him.

15. Accordingly, the application is disposed of with a direction to the respondents to constitute a review D.P.C. to consider inclusion of his name to Promotion List 'F' (Executive) with effect from the date the name of his immediate junior was so included. The review D.P.C. shall consider the suitability of the applicant to be brought on Promotion List 'F', ignoring the fact that his name exists in the Secret List of officers having doubtful integrity. In case, persons with similar or worse records have been brought on Promotion List 'F', as has been alleged by the applicant, the name of the applicant should also be brought on Promotion List 'F' and he shall be promoted as Inspector of Police at his due place of seniority.

16. The respondents shall comply with the above directions expeditiously and preferably within a period of four months from the date of receipt of this order. We make it clear that after bringing the applicant on Promotion List 'F', the respondents will be at liberty to take appropriate action against the applicant in accordance with law, if so advised. There will be no order as to costs.

  
(B.N. Dhoundiyal) 22/5/83  
Administrative Member

  
22/5/83  
(P.K. Kartha)  
Vice-Chairman (Judl.)