

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2104/91
T.A. No.

199

DATE OF DECISION 30.1.1992.

<u>Shri Purshottam Dass</u>	<u>Petitioner</u> Applicant
<u>Shri Shanker Raju</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India through Miny. of Home Affairs</u>	Respondent
<u>Shri K.C. Mittal</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhaundiyal, 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? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? /NP
4. Whether it needs to be circulated to other Benches of the Tribunal?

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

The applicant, who is working as an Assistant Commissioner of Police, is aggrieved by his non-appointment to Selection Grade of the DANI Police Service w.e.f. 19.12.88. He has sought for a direction to the respondents to convene Review D.P.C. to consider his case for such appointment. He has also prayed for all consequential benefits, including pay and allowances from the due date.

2. We have gone through the records of the case and have considered the rival contentions. The facts of the case are

Q

....2...

not disputed. The applicant feels that what has stood in the way of his being appointed to the Selection Grade, is the adverse remarks in his ARCs for two consecutive years, 1986-87 and 1987-88. He apprehends that the D.P.Cs which had met, had taken into account these adverse remarks and that is how he was not recommended by the D.P.C. for appointment to the Selection Grade.

3. The adverse remarks for the year 1986-87 were communicated to the applicant in March, 1988, while the adverse remarks for the year 1987-88, were communicated to him in April, 1991. A D.P.C. was held in December, 1989 to consider the officers for the grant of Selection Grade, but his name was not recommended by it. A Review D.P.C. was held on 23.8.1991 which, according to the applicant, again took into account the adverse remarks for the year 1986-87 though they had been expunged by an order dated 1.4.1991. The applicant claims that he is legally entitled to get Selection Grade w.e.f. 19.12.1988, when a vacancy had arisen on account of the promotion of Shri D.K. Bhatta, A.C.P., to the rank of Deputy Commissioner of Police.

4. The respondents have stated in their counter-affidavit that the representation submitted by the applicant against the adverse remarks in his A.C.R. for the year 1987-88, has not been decided by the Chief Secretary, Delhi Administration.

DR

According to them, when his case for appointment to the Selection Grade was considered by the D.P.C., the adverse remarks in his A.C.R. for the year 1986-87 had been rejected. While the D.P.C. met in December, 1989, the Chief Secretary, Delhi Administration had rejected the representation in June, 1989. Subsequently, these adverse remarks had been expunged by the Ministry of Home Affairs on 1.4.1991.

5. Admittedly, the D.P.C.s which were held in December, 1989 and 1991, considered the case of the applicant for appointment to Selection Grade when his representation against the ACRs for the years 1986-87 and 1987-88 were pending with the authorities concerned. In such a case, the D.P.C. should not have taken into account the adverse remarks while adjudging the suitability of the applicant for admission to the Selection Grade.

6. In the light of the foregoing discussions, we partly allow the application and direct the respondents to hold a Review D.P.C. to consider the suitability of the applicant for appointment to Selection Grade, ignoring the adverse remarks in the ACRs of the applicant for the years 1986-87 and 1987-88. If, after such consideration, the D.P.C. recommends the applicant as suitable for appointment to the Selection Grade, he shall be appointed to the same grade with effect from the date his immediate junior was given the Selection Grade. In that event, the applicant would also

Q

be entitled to the arrears of pay and allowances from the date his immediate junior was given the Selection Grade. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. There will be no order as to costs.

B.N.Dhundiyal
(B.N. Dhundiyal)
Administrative Member

Omung 30/1/82
(P.K. Kartha)
Vice-Chairman(Judl.)