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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 3028/91

New Delhi this the 7th day of August, 1996.

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri R.K. Aahooja, Member(A).

Gurjit Singh,
S/o Shri Bhabikhan Singh,
R/o Quarter No. 31-B, PS Janakpuri,
New Delhi. ..Applicant.

By Advocate Shri Shyam Babu.

Versus

1. Lt. Governor of Delhi, through
Chief Secretary,
Delhi Administration,
Delhi.
2. Commissioner of Police, Delhi,
Delhi Police Headquarters, MSO Building,
I.P. Estate,
New Delhi.
3. Deputy Commissioner of Police (Headquarters),
Delhi Police Headquarters, MSO Building,
I.P. Estate,
New Delhi. ..Respondents.

By Advocate Shri Vijay Pandita.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant, who was appointed as Constable in Delhi Police on 28.9.1972 and promoted as Head Constable on 14.5.1982 on probation for two years, is aggrieved that in terms of Rule 5(ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 (hereinafter referred to as 'the Rules'), he has not been confirmed with effect from 14.5.1984 and not sent for training in the Intermediate School Course after admission of his name to promotion list D-I (Executive) even though his juniors had

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been confirmed and sent for the same.

2. By interim order dated 20.12.1991, the Tribunal had directed the respondents to provisionally depute the applicant for training in the Intermediate School Course.

3. The respondents have filed a reply in which they have stated that the applicant was due for confirmation with effect from 22.11.1985, but was passed over for a period of six months as he had been punished with a 'Censure' by order dated 28.10.1985. He was confirmed with effect from 22.5.1986 and so lost his original seniority. The DPC held on 9.1.1991 only considered those Head Constables (Executive) for inclusion in the promotion list D-I (Executive) who stood confirmed as Head Constables as on 22.11.1985.

4. We have heard Shri Shyam Babu and Shri Vijay Pandita, learned counsel for both the parties and perused the records.

5. Shri Shyam Babu, learned counsel, relies on the provisions of the Rule 5(ii) of the Rules and the following decisions of the Tribunal, namely,

- (i) Narain Singh Vs. Union of India & Ors. (O.A. 899/92) decided on 2.4.1993;
- (ii) Azad Singh Vs. Lt. Governor, Delhi & Ors. (O.A. 534/92), decided on 25.3.1994;
- (iii) Rishi Dev Sharma Vs. Lt. Governor of Delhi & Ors. (O.A. 1346/91) decided on 14.7.1995;

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(iv) Manoj Kumar Sharma Vs. Delhi Administration
and Ors. (O.A. 2340/90) decided on
6.12.1994.

(Copies of the judgements placed on
record)

6. Rule 5(ii) of the Rules in effect provides that a promotion shall be on officiating basis and the employee shall be considered for confirmation only on availability of permanent post and on successful completion of probation period of minimum two years. The appointing authority can, however, extend ~~the~~ period of probation or revert the promoted employee or confirm the promotee. The maximum period of probation is for three years. The respondents have stated that although the applicant was due for confirmation with effect from 22.11.1985, he was passed over for a period of six months, as there was 'Censure' order against him dated 28.10.1985. Having regard to the provisions of Rule 5(ii) of the Rules, the applicant's probation period could not have been extended beyond three years, from the date he was promoted as Head Constable on 14.5.1982, i.e. beyond 13.5.1985, on which date admittedly there was no punishment of 'Censure' against him. The applicant's probation period of two years was neither extended nor was he reverted to a lower post by the respondents in terms of Rule 5(ii) of the Rules. Having regard to the decisions of the Tribunal in the cases of Narain

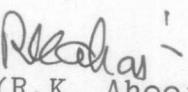
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Singh (OA 899/92), Azad Singh (OA 534/92), Rishi Dev Sharma (OA 1346/91) and Manoj Kumar Sharma (OA 2340/90) (Supra), which are fully applicable to the facts in this case, the order confirming the applicant from 22.5.1986 is not sustainable and it is accordingly quashed and set aside.

7. In the facts and circumstances of the case, the applicant shall be deemed to be confirmed with effect from 22.11.1985 with all consequential benefits of seniority. If the applicant has completed the Intermediate School training course successfully, he shall be entitled to have the seniority refixed with all consequential benefits, in accordance with the rules, taking his date of confirmation as 22.11.1985. Accordingly, the respondents shall take necessary action within a period of three months from the date of receipt of a copy of this order.

8. In the result, the application succeeds and is allowed with the above directions. No order as to costs.


(R.K. Ahooja)
Member (A)

'SRD'


(Smt. Lakshmi Swaminathan)
Member (J)