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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 3031/1991

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New Delhi this the 28th Day of April 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A))

Shri Sohan Pal Singh (D-1468)
Resident of A-3 New Police Lines,
Delhi

Applicant

(By Advocate: Shri Shyam Babu)

-Versus-

1. Delhi Administration, Delhi
through its Chief Secretary,
5 Sham Nath Marg,
Delhi-110 054.
2. Commissioner of Police, Delhi,
Police Headquarters, I.P. Estate,
New Delhi-110 002.
3. Deputy Commissioner of Police,
HQ (I) Delhi, Police Headquarters,
I.P. Estate,
New Delhi.

Respondents

(By Advocate: Shri D. Mukherjee, Proxy
for Shri Anoop Bagai)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The applicant in this case was initially appointed as Assistant Sub-Inspector on a temporary basis since 14.8.1957. He was confirmed as Constable on 1.8.1961 and thereafter he was confirmed as ASI on 17.2.1972 and promoted as Sub-Inspector in 1973. After a Departmental Inquiry, the respondents reverted the petitioner from the post which he was then holding to ASI without considering that he was then should have reverted only to the post of Sub-Inspector. Aggrieved by the said order and seeking various other reliefs with reference to his promotion, the petitioner approached the High Court in Civil Writ No. 34/74 which was transferred to this Court vide TA No.

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101/85 and this Court passed a final order on the said on 2.2.1988 and allowed the said transferred application and passed the following order:

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- a) The petitioner should be deemed to to have been notionally reverted as SI and not as ASI with effect from 7.9.1971 with all consequential benefits of pay and seniority as SI. The arrears of pay and allowances should be paid to him within a period of three months from the date of communication of this Order.
- b) On the basis of his revised seniority in the grade of SI, the applicant should be considered for promotion as an Inspector from the date he becomes eligible for such consideration as if he has been officiating as an SI with effect from 22.2.1968 when he was appointed as a PSI.
- c) In considering him for promotion as an Inspector the punishment of forfeiture of three years of service awarded to him on 30.6.1966, and entries pertaining to that punishment should not be considered.

The respondent is alleged not to have implemented the said order and the petitioner filed a petition under the Contempts of Courts Act vide CCP No.189/89 and this Court passed inter alia the following order dated 18.5.1990:-

"At the time of hearing, counsel of the petitioner agreed that the direction contained in Clauses (a) & (e) of the final order have been complied with by the respondents. However, it was submitted by him that the petitioner is entitled to certain arrears as a result of the above. So long as the directions in the final order have been complied with even if the petitioner is entitled to any amount by way of arrears on that account and has not been paid the same, it will not afford the foundation for proceeding against the respondents in contempt. The remedy open to the petitioner is to make a proper representation to the respondents for payment of amount, and in case it is not agreed to pursue the matter by giving Original Application under Section 19 of the Administrative Tribunals Act, 1985.

As far as the direction contained in the Clauses (b) of the final order, it is agreed that the petitioner was actually considered for promotion as S.I., but the grievance of the petitioner is that such consideration was not held in accordance with the rules this is to be

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finished so far as the applicant is concerned. On this matter in para 4 of the reply by the respondents, the flaw in the consideration is more or less admitted and it is stated that the matter " will be placed before Commission of Police alone immediately." It was stated by the counsel of the applicant that subsequent to the filing the reply, the matter has been actually placed before the Commissioner of Police but it cannot be finalised as he is indisposed and that will be finalised at the earliest. It was also stated by him that in accordance with the direction in the final order contained in clause (b) the applicant will be duly considered from the date he became eligible for such consideration during the years when selection was held for promotion to the post of Inspector. We record this submission.

2. In accordance with the said orders, the petitioner made a representation alleging that the respondents did not comply with the orders in not paying the arrears due to the petitioner as well as in not considering the petitioner in accordance with the list 'F' (Ex) w.e.f. 11.5.78.

3. The contention of the learned counsel for the petitioner was that as on 11.5.1978 the rules promulgated by the appropriate authority under the Delhi Police Act, 1978 has not come into force, they have been in force only in December, 1980 and by the patent Act viz., the Delhi Police Act, 1978, Punjab Police were applicable to the case of the petitioner and his case should have been dealt with in accordance with the said rules and the respondents have wrongly proceeded with the case of the petitioner on the basis of a Standing Order which was stated to be inapplicable to the Delhi Police Personnel at the relevant time.

4. The learned counsel for the respondents on the other hand stated that the petitioner's case was not considered in accordance with the said Standing Order rather his case was decided on the basis of certain norms



fixed by the Commissioner of Police, which was equitably followed in all the similar cases between the date on which the Act came into force and the date on which the concerned rules were promulgated. The respondents also have annexed the grading given to the petitioner alongwith the reply as well as the copies of the guidelines applied by the Commissioner of Police to the present case and the marks obtained by various incumbents considered alongwith the petitioner. We are satisfied that the case of the petitioner was not considered under the alleged Standing Orders which in fact was not applicable nor under the P.P.R. viz. para 13.14 to 13.19; rather the case of the petitioner was considered in accordance with the norms fixed and uniformly applied to all the Police Personnel during the above said period prior to promulgation of the rules.

5. The next contention of the learned counsel of the petitioner is that by the order of this Court stated above dated 2.2.1988, the respondents were to pay all the arrears and allowances within a period of three months from the date of communication of the said orders. It is admitted fact that the same has not been complied with. It was so noticed by the order in CCP dated 16.5.1990 wherein it was stated that the arrears not paid, and the same was subject matter for further representation and the respondents should have made the payment thereafter. We are of the view that since the respondents have not made payment of arrears as directed by this Court, even though the promotion due was granted to the petitioner during the period 21.3.1985 to 20.2.1989. The respondents shall make the payment of arrears and all allowances for the said period without treating the promotion granted to the



petitioner as a proforma promotion and the said arrears and all the allowances directed to be paid by the Order of this Court dated 2.2.1988, and noticed by this Court not to have been paid by an Order in the CCP proceedings, shall be paid to the petitioner within three months from the date of the receipt of this Order with 12% interest from the expiry of three months period granted by the Court dated 2.2.1988. We further clarify that the petitioner is entitled to treat the promotion granted to him, not as a proforma promotion, and he will be entitled to all the pay and allowances for the period 21.3.1985 to 20.2.1989, admittedly denied to the petitioner vide para 4.13 of the Counter Affidavit. The said payment shall be calculated and paid to the petitioner with 12% interest from the expiry of three months from the date of the original judgement viz., 18.2.1988.

6. With these directions this O.A is partly allowed and no orders as to costs.



(S.P. Biswas.)

Member (A)



(Dr. Jose P. Verghese)

Vice Chairman (J)

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