

Central Administrative Tribunal
Principal Bench

O.A. No. 376/91

New Delhi on this 28th day of August, 95.

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

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

Raghbir Singh (947/D)(Ministerial),
S/o Shri Budhu,
Resident of Gokulpur,
PO. Karawal Nagar,
Delhi-110 032.

..Applicant.

By Advocate Shri Shyam Babu.

Versus

1. Delhi Administration, Delhi,
through its Chief Secretary,
5, Shamnath Marg,
Delhi.
2. Commissioner of Police, Delhi,
Police Headquarters, IP Estate,
New Delhi.
3. Dy. Commissioner of Police (Headquarter I),
IP Estate,
New Delhi.
4. Mr. Ram Lal (SI/Ministerial),
Office of Dy. Commissioner of Police,
North District, Civil Line,
Delhi.

..Respondents.

By Advocate Shri Amresh Mathur.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

The applicant has prayed for the following directions:

- (a) Call for the record of the case and quash/
set aside order dated 23.1.90 (Annex.P),
order dated 13.9.90 (Annex.R) and order
dated 17.12.90 (Annex.T);
- (b) direct the respondents to bring the name
of the applicant on promotion list 'D'
(Ministerial) with effect from 3.8.79
by virtue of order dated 6.8.79 (Annex.F)

and his name be further shown above
Mr. Ram Lal in that list.

(c) promote the applicant as SI
(Ministerial) from the date when
his junior Mr. Ram Lal was so promoted
and his name should be shown senior
to Mr. Ram Lal in that list and grant
all other benefits/relief which have
been given to Mr. Ram Lal.

(d) grant all consequential benefits
and reliefs which are admissible
to the applicant whether monetary,
seniority or promotion.

2. The brief facts of the case giving rise to
this O.A. are as follows:

2.1 Both the applicants and Respondent No. 4 belong
to the Ministerial staff of the Delhi Police.
Admittedly, the applicant was senior as Head
Constable/ to the 4th respondent as is evident by
the Annexure 'B' dated 9.1.1975. The 4th respondent
was promoted as Assistant Sub Inspector/on 3.8.1979.
Such a promotion was given to the applicant only
on 17.2.1986.

2.2 These promotions were given on the basis of
S.O.49/78. That standing order prescribes the
essential requirements for promotion to the executive
cadre. Those very same considerations were made
applicable for considering promotions in the
Ministerial ranks. This Tribunal in TA 473/85
Banwari Lal Vs. Union of India, decided on 30.5.1988

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quashed the decision of the respondents adopting Standing Order No. 49/78 for the purpose of regulating promotion to the Ministerial ranks.

2.3 Consequent upon this order of the Tribunal the order dated 6.8.1979 by which a number of Head Constables were admitted to Promotion List 'D' was quashed by the Annexure 'J' dated 23.6.1989. However, this order saved the promotion order of two persons, one of whom was the 4th respondent.

2.4 It may be mentioned here that the Standing Order No. 49/78 contemplates assigning marks for various factors and it is on the basis of those marks that it is decided whether a person has made the grade or not.

2.5 In view of these developments, the applicant made a representation on 27.12.1989, (Annexure 'O') to the Commissioner of Police requesting that his name may be added in the review Promotional List above the name of Ram Lal and Ishwar Singh. This representation was rejected by the memo dated 23.1.90 Annexure 'P'. A further representation dated 21.8.90 Annexure 'Q' was made which is also rejected by the memo dated 13.9.90 Annexure 'R'. Hence, another representation Annexure 'S' was made in December, 1990 which was also rejected on 17.12.1990 by the Annexure 'T' memo.

2.6 The applicant has assailed the impugned Annexure 'P', Annexure 'R' and Annexure 'T' orders. He has requested for a direction to the respondents

that he should be brought in the promotion list 'D' w.e.f. 3.8.1979, that is the date with effect from which his junior Ram Lal's name has been included in the list. He has sought further promotion as SI Ministerial as a policy.

3. The learned counsel for the respondents submitted that the O.A. is barred by limitation. We have considered this aspect. The first representation was rejected on 23.1.1990. Hence, the O.A. should have been filed on 23.1.1991. It has been filed on 7.2.1991. We are, therefore, of the view that the delay should be condoned and we direct accordingly.

4. The whole question turns on the issue whether the applicant was superseded in the first instance for inclusion in the 'D' list announced on 6.8.1979, on the ground that he did not make the grade in terms of the Standing Order 49/78. For, the learned counsel contended that if that was so that decision has to be quashed because this Tribunal has set aside the decision of the respondents making applicable to the Ministerial Police cadre the Standing Order 49/78.

5. On our directions, the respondents produced the records. The learned counsel for the respondents has brought the records of the DPC meeting held in 1979 on the basis of which the Annexure 'F' List dated 6.8.1979 was issued, in which only ^{in was} the name of the 4th respondent included and the name of the applicant was missing. After perusal of the records, he confirms that in that DPC, the basis adopted was the Standing Order 49/78. The applicant was found unfit in terms of the standard prescribed by that Standing Order. He was, however, later included in the 'D' list only from 11.11.1985 and given promotion only from 17.2.1986. In view of the fact that the Standing Order 49/78 has been quashed and the fact that the Annexure 'F' order dated 6.8.1979 has been cancelled by the respondents, except for protecting the promotion of Head Constable Subhash Chander and the 4th respondent Ram Lal,

we have to hold that the case of the applicant for inclusion in the 'D' list (Ministerial) has to be reconsidered by a review DPC and the minutes of the earlier DPC dated 1.8.1979 have to be reviewed.

6. The learned counsel for the applicant also points out that in accordance with Rule 15(iii) of the Delhi Police (Promotion and Confirmation) Rules, 1980, the selection for inclusion in the list 'D' Ministerial shall be made on the recommendations of the DPC and their names, if included, will be recorded in the order of the respective seniority. Therefore, if the applicant is found fit for inclusion in the 'D' list Ministerial, in accordance with the instructions, other than Standing Order No. 49/78, he should also get placed in that list in accordance with the seniority as Head Constable along with consequential benefits.

7. We, therefore, dispose of this O.A. by quashing the impugned orders dated 23.1.1990 (Annexure 'P'), 13.9.1990 (Annexure 'R') and 17.12.1990 (Annexure 'T'). We direct the respondents to convene a review DPC which should review the minutes of the DPC held on 1.8.1979 on the basis of which the name of the respondent No. 4 was included in the Annexure 'F' promotion list 'D' (Ministerial) and the review DPC shall consider whether the applicant was ^{also} eligible for inclusion in that list on the basis of standards, other than, Standing Order No. 49/78. In case, the applicant is found fit for inclusion in that list, his name should be included in that list in accordance with seniority as Head Constable as provided in Rule 15(iii). If the applicant's name is so included, his case for earlier promotion to the rank of ASI and to the rank of SI (Ministerial) with effect from the dates on which his immediate junior Ram Lal was promoted, shall be considered. We make

it clear that in the circumstances of the case, if the applicant is promoted from earlier dates, such promotion will be notional and there will not be any arrears of pay given to him but his pay on the actual date of promotion to these grades will be refixed. These orders shall be complied with within a period of four months from the date of receipt of this order.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

N.V. Krishnan

(N.V. Krishnan)
Vice Chairman(A)

'SRD'