

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.667/91

New Delhi this 17th day of February, 1995

Hon'ble Shri P.T.Thiruvengadam, Member(A)
Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Shri Om Prakash
(Head Constable-584/2)
s/o late Shri Pritam Singh
r/o Quarter No.13, Police Station
Sadar Bazar,
DELHI.

Presently posted in the office of Deputy
Commissioner of Police (Provisioning & Lines)
Delhi. Applicant

(By Shri Shyam Babu, Advocate)

Vs.

1. Delhi Administration, Delhi
through its Chief Secretary
5, Sham Nath Marg,
Delhi.
2. Commissioner of Police,
Delhi Police Headquarters,
I.P.Estate
New Delhi.
3. The Deputy Commissioner of Police
(Provisioning and Lines)
Old Police Lines
Delhi. Respondents

(By Shri Anoop Bagai, Advocate)

O R D E R (Oral)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicant was working as a Constable in Delhi Police. He was aggrieved that he was not getting promoted though his batchmates were getting promotions. It is his case that he personally met the Commissioner of Police, Delhi on 31.5.1990 and consequently he was promoted as a Head Constable on 29.6.1990 in the Mobile Demolition Squad of Delhi Police. He was given the Kit Card and the Uniform of Head constable. He admits that he was not given the

(2)

promotion order. All the same respondents had allowed pay in the scale of the Head constable w.e.f. 29.6.1990.

Subsequently, by an order dated 13.3.1991, the respondents cancelled the earlier pay fixation in the scale of Head Constable (Rs.975-1640) and brought him down to the scale of Constable in the scale of Rs.950-1400. This OA has been filed challenging the order of 13.3.1991 and for a declaration that the applicant is entitled to be promoted as Head Constable w.e.f. 29.6.1990 with all consequential benefits.

2. The learned counsel for the applicant mainly relies on the non-issue of any show-cause notice to the applicant. There was no disciplinary proceeding against him nor was there any act of misdemeanour. It is argued that sudden visitation of a reversion is illegal.

3. Learned counsel for the respondents mentioned that an inadvertent entry had been made in his Character Roll to the effect that he had been promoted w.e.f. 29.6.1990. As a result of this wrong entry a kit card had been issued to him. Also pay fixation benefits in the higher scale were extended. Later when the error was detected, corrective action was taken. It was orally mentioned that the inadvertent entry had taken place due to mixing up with another Shri Om Prakash who had ^{been} ~~been~~ promoted.

4. We note that the impugned order of 13.3.1991 has been issued without giving an opportunity to the applicant to explain his case. In a similar case of wrong fixation where an order was issued for reduction in pay without

giving opportunity of being heard, their Lordships of the Supreme Court held (Bhagwan Shukla Vs. U.O.I. and Others -Civil Petition 447 of 94, (JT 1994)(5) SC 253) that it was a case of flagrant violation of principles of natural justice and the appellant therein had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such orders which are affecting an employee to suffer civil consequences should be passed without serving the concerned notice and giving him an hearing in the matter.

5. In view of the above, we quash the order issued by Deputy Commissioner of Police on 13.3.1991 by which the applicant's pay had been brought down from the scale of Head Constable to that of Constable.

6. However, in the interests of justice and in the circumstances of the case, the following directions are given:

i) The respondents are given liberty to take action as per law, ~~if~~ they want to pursue with the case.

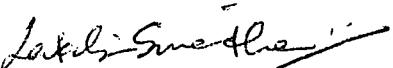
ii) The respondents are also directed to specifically ~~to~~ examine as to whether the applicant discharged the duties and responsibilities of Head constable during the period from 29.6.1990 to 13.3.1991. If they are

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11. The OA is directed to pay

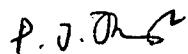
satisfied, they should allow the pay in the scale of Head Constable to the applicant for this period. The decision taken in this regard must be conveyed to the applicant within three months from the date of receipt of this order by way of speaking order.

7. The OA is disposed of with the above directions. No costs.


(MRS. LAKSHMI SWAMINATHAN)

MEMBER(J)

/RAO/


(P.T. THIRUVENGADAM)

MEMBER(A)