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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

O.A.No. 833/91

New Delhi this the 22nd day of August, 1996.

HON'BLE MR.S.R.ADIGE, MEMBER (A)

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Shri Sher Singh,
s/o Shri Chhattar Singh,
Contable No.29/SB (Earlier No.324/W),
Village and P.O.Rawta,
Delhi-110 073 Applicant.

By Advocate: Shri B.S.Charya.

Versus

1. The Commissioner of Police,
Police Headquarters, Delhi Police,
MSO Building, IP Estate,
New Delhi.
2. The Deputy Commissioner of Police,
Delhi Police, West District,
P.S.Rajauri Garden,
New Delhi.
3. Union Of India,
Ministry of Home Affairs,
Govt. of India,
New Delhi,
Through its Secretary Respondents.

By Advocate: Shri Arun Bhardwaj.

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER (A).

Heard.

2. The only relief pressed by applicant's counsel Shri B.S.Charya is for consideration for being brought to promotion list 'A' as a result of test held in 1989-90.
3. The respondents have admitted vide letter dated 13.3.96 which is taken on record that the applicant has secured 131.50 marks out of 200 and cut off marks (minimum) for admission

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to promotion list 'A' for general category candidates such as the applicant, was 134 marks in that test. From that letter it appears that as the applicant had secured 131.50 marks, he thus fell short by only 2.50 marks.

i.) In this regard, Shri Charya averred that the applicant secured only .50 marks out of 15 for ACRs for the previous five years because he was under suspension from 1984 till 1989 and no ACRs were written for that period. Shri Charya contends that as per Joint Secretary, UPSC's letter dated 19.7.82 (Annexure-PX2) where ACRs of an officer for some years are missing and have not been written because the officer was under suspension, the DPC should take into account the earlier period of the reports. Thus Shri Charya contends that in the ACRs for the period 1984-89, on account of the applicant being under suspension, the respondents should have taken into account the applicant's ACRs for the period 1979-84, but this has not been done by them. He contends that had they done so, he would have secured the necessary 2.50 marks required for reaching the minimum cut off marks 134.

ii) Secondly Shri Charya has stated that the applicant got 'nil' marks out of 5 for professional courses, under the mistaken impression by the respondents that the applicant had not participated in any professional courses

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but in fact the applicant had participated in the Despatch Rider Course, the Special Wireless Operator Course and Special Task Force Course and if the respondents had given the applicant credit for his participation in the above courses, he would have secured the required marks to reach the minimum 134 cut off marks.

4. Both these arguments essentially involve questions of fact and as the relevant DPC proceedings are not before us, we are not in a position to pronounce authoritatively upon.

5. In the result, we dispose of this OA with the following directions:

- i) The respondents will examine the factual correctness of each of the two averments made by Shri Charya. If any of the above two averments is factually correct, i.e. if the respondents in the absence of the applicant's ACRs for the period 1984-89 on account of his suspension, did not take into account the ACRs for the period 1979-84, or if they did not take into account the professional courses referred to above, in which the applicant had participated, ^{before he was suspended,} they will hold a fresh DPC after taking the above two averments into account and consider the applicant's case for admission to promotion list 'A'

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w.e.f. 1989-90. However, in the event that the above averments made by Shri Charya are not factually correct the respondents will inform the applicant in writing accordingly.

ii) These directions should be implemented within 3 months from the date of receipt of a copy of this judgment.

6. This OA is disposed of accordingly. No costs.

A. V. Veda Valli
(DR. A. VEDAVALLI)
MEM-BER (J)

S. R. Adige
(S. R. ADIGE)
MEMBER (A).

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