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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1007 of 1991

New Delhi this the 18th day of May, 1995

Mr. A.V. Haridasan, Vice-Chairman
Mr. K. Muthukumar, Member(A)

Shri Deep Chand No. 199/NW

Applicant

By Advocate Mrs. Meera Chhibber

Versus

1. Commissioner of Police, Delhi Police,
Police Headquarters,
I.P. Estate,
New Delhi.
2. Deputy Commissioner of Police(HQ-I),
Delhi Police,
Police Headquarters,
New Delhi.
3. Dy. Commissioner of Police
(Rastrapati Bhavan),
Delhi Police,
Police Headquarters,
New Delhi.

Respondents

By Advocate Shri Surat Singh

ORDER (ORAL)Mr. A.V. Haridasan, Vice-Chairman

The grievance of the applicant, a Head Constable in the Delhi Police is that he has been discriminated in the matter of placement in D-1 list for promotion to the post of Assistant Sub Inspector. The applicant, who commenced his service as a Constable in the Delhi Police on 28.6.1972 was promoted as a Head Constable on 7.7.80. In the month of December, 1988, the department considered about 2000 Head Constables for bringing on D-1 List (Executive) and cleared by order dated 12.12.88, a list of 563 Head Constables. The applicant figured at S.No. 157 of the list of Head Constables but his name was not included in the panel. The case of the applicant was kept in the sealed cover by the Departmental Promotion Committee (hereinafter referred to as 'DPC') as a departmental enquiry was pending against him at that time. According to the applicant, his record of

service for 5 years preceding the date of meeting of the DPC were 'very good' with grading 'A' or 'B' and he had no adverse entry during the said period. Apart from censure awarded to him on 18.04.88, the applicant states that there was nothing which stood in the way of his being promoted. After the culmination of the disciplinary proceedings on 2.2.89, the applicant was again awarded a censure and this censure, according to the applicant, was for the period prior to 18.4.88 and this should not have stood in the way of his being included in the D-1 list in December, 1988. The applicant made a representation that the sealed cover may be opened and action taken in accordance with that. To this representation, the applicant was informed by order dated 30.04.89 that though the sealed cover was opened ~~but~~ his name could not be brought in the D-1 list as he did not make the grading for admission to the D-1 list. The applicant made a further representation against this order which was also rejected by later order dated 22.08.90. It is under these circumstances that the applicant has filed this application praying that the order dated 30.04.89 and 5.9.90 Annexures 'C' and 'D' respectively may be set aside, that it may be declared that the applicant is entitled to be brought on the D-1 list with effect from 7.12.88 at S.No.156A and any other relief which is just and proper.

2. The applicant has stated in the application that he has been discriminated in a hostile manner inasmuch as the respondents had brought the Head Constables who have worse record than the applicant, for example Head Constable Rajbir Singh No.364/SD whose ~~pas~~ 2 years service were forfeited had been declared fit, That Head Constable

Joginder Singh No.241/N who was challaned under Sections 92, 93 and 97 of the Delhi Police ACT and was fined Rs.70/- by the Magistrate on 3.2.1988 has been brought on the D-1 list. That Head Constable Ranbir Singh NO.54/W who was awarded censure on 4.4.1988 for demanding money from truck driver was empanelled. ^{That} Head Constable Sher Singh who was awarded two censures one on 11.11.87 and other on 11.2.88 has also been brought on D-1 list by the same DPC and that the action of the DPC clearly spell out discrimination.

3. The respondents in their reply have admitted that the averments regarding the service file of the various Head Constables who were brought on the D-1 list by the same DPC was a matter of record, ^{in my} and in the case of Rajbir Singh, the punishment was of a very earlfier date which was not relevant and that no discrimination has been shown as against the applicant. They have also stated that though punishments were awarded to some Head Contables but their names have been recommended by the DPC for inclusion in D-1 list, ^{because} there was nothing which reflected on their integrity and, therefore, their clearance by the DPC was in order. The respondents, therefore, contend that the applicant is not entitled to claim ^{any} relief in this application.

4. We are informed that on the recommendations of the subsequent DPC, the applicant has already been empanelled in D-1 list and has been promoted as Assistant Sub Inspector in the year 1991.

5. We have heard the learned counsel for the parties. Generally the courts or the Tribunals would not interfere with the finding of an Expert Body like the Departmental Pormotion Committee(DPC). In this case since instances of discrimination have been specifically alleged, we

feel that to satisfy our judicial conscious, it is necessary ^{that} ~~if~~ we glance through the Minutes of the DPC as also the ACR dossier of the applicant and 4 other Head Constables, namely, Rajbir Singh, Joginder Singh, Ranbir Singh and Sher Singh. As directed by us, the learned counsel for the respondents have today produced for our perusal the Minutes of the DPC, ^{DPC in regards to me} The recommendations of the applicant which was kept in the sealed cover and the service books of the applicant and 4 other Head Constables containing their ACRs for the relevant period. We have carefully scrutinised the ACRs of the applicant as also of the other 4 Head Constables. We have also seen the recommendations of the DPC and the assessment chart. We are astonished to find that the DPC has committed glaring mistakes in preparing the ^{whole} assessment chart whereas the ACR of the applicant for the relevant period reflected 'A', 'A', 'B', 'B', 'B' 'B', 'A' and 'B'. In the assessment chart he was given grade 'B', 'A', 'B', 'B', 'B', 'B' and 'A'. For the period ending 31.3.1984, the applicant was graded 'A' in his ACR whereas in the assessment chart, this period was graded only ^{as} ~~A~~ shown as 'B'. Even according to the assessment made in the assessment chart, assessment of Ranbir Singh S.No.176 is as - 'B', 'B', 'A', 'B' and 'B'. The applicant's grading ^{appeared} to this Ranbir Singh can be easily considered much better and we do not find ^{any} the justification for the DPC to recommend inclusion of Ranbir Singh in D-1 list while they ~~held~~ that the applicant is not entitled to be included in the D-1 list.

6. In the reply statement, the respondents have

contended that the non-inclusion of the applicant in the D-1 list was on account of not making the grade. But as stated by us, grading made by the applicant in comparison with the grading in the case of Ranbir Singh is better and, therefore, the recommendations of the DPC not to include the applicant's name in the D-1 list cannot be sustained. ~~This appears to be logical and impartial.~~ In this view of the matter, we have come to the conclusion that there is merit in the contention of the applicant that he has been discriminated in the matter of assessment of his service record vis-a-vis Ranbir Singh.

7. We have also noted that Ranbir Singh had been awarded one censure on 4.4.88 just as the applicant during the relevant period. The only reason why the case of the applicant was kept in the sealed cover when the DPC met was that the proceeding against the applicant was pending at that time but in that proceeding he had been ~~awarded~~ ^{only} ~~department~~ censure and the ~~DPC~~ has thereafter opened the sealed cover.

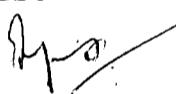
8. ~~If~~ the recommendations of the DPC which was kept in the sealed cover though it was stated that the applicant's case was not recommended for inclusion in the D-1 list, ~~no reference has been made~~ ^{Reason has been Stated on 1/6} why the DPC did not find him suitable.

9. In the light of what is stated in the foregoing paragraph, we are of the considered view that the applicant has not been properly considered and his service record has also not been carefully scrutinised by the DPC before recommending him not fit to be included in the D-1 list. Therefore, we consider it necessary to

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direct the respondents to have the case of the applicant for inclusion in the D-1 list as on 5/7-12-1988 considered by the review DPC and if he is found suitable for inclusion in the D-1 list, to include his name in the D-1 list and to promote him as Assistant Sub-Inspector with effect from the date his junior was promoted and fix his pay notionally. The applicant will not be entitled to any arrears of pay and allowances as a consequence of any such antedated promotion and notional fixation of pay. His seniority shall also be re-determined accordingly.

10. Action in the above lines should be completed within a period of 3 months from the date of communication of this order. The application is disposed of with the above directions leaving the parties to bear their own costs.


(K. MUTHUKUMAR)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN (J)

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