

(8)

201

**Central Administrative Tribunal
Principal Bench**

O.A.No.2699/2004

With

O.A.No.137/2005

New Delhi, this the 1st day of December 2005

**Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Shri M.P. Singh, Vice Chairman (A)**

OA-2699/2004

Inspector Kapoor Singh
D-1/607,
RZ-163, Vaishali
Palam Dabri Road
New Delhi-75

..Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus


1. Union of India through
Ministry of Home Affairs
North Block, New Delhi
 2. Commissioner of Police
Police Head Quarter
IP Estate, New Delhi
 3. Special Commissioner of Police
Administration, Police Headquarter
IP Estate, New Delhi
 4. Lilaram Jeph
D-1-544
 5. Kirorilal Singh
D-1-545
 6. Kamal Ram Meena
D-1-511
 7. Babu Singh Dardi
D-1-89
 8. Harkala Devi Thapa
D-1-3
 9. Krishna Dwivedi
D-1-4
 10. Sushma Sodhi
D-1-5
 11. Jinender Kumar
D-1-159
- (Signature)*

12. Man Kumar
D-1-133
13. Roshan Lal
D-1-149
14. AU Siddiqui
D-1-160
15. Sultan Singh
D-1-561
16. Chander Bhan
D-1-399
17. Gulab Rai
D-1-225
18. Vijay Sule
D-1-515
19. Partap Singh
D-1-592
20. Raghubir Singh
D-1-259
21. Harish Chander
D-1-283
22. Harbans Lal
D-1-161
23. Dharam Chand
D-1-516
24. Puran Singh
D-1-276
25. Prit Pal Singh
D-1-517
26. Surender Parkash
D-1-518
27. Satya Parkash
D-1-580
28. Gurnam Singh Sethi
D-1-573
29. Naresh Chand Aneja
D-1-519
30. Ashutosh Chatterjee
D-1-582
31. Jinder Kumar
D-1-562
32. Mohan Chander
D-1-520



33. Ravinder Singh Grewal
D-1-521
34. Raj Singh
D-1-563
35. Jeet Singh
D-1-522
36. Nand Kishor
D-1-242
37. Bhim Singh
D-1-92
38. Ishwar Singh
D-1-569
39. Surender Kumar Rathi
D-1-574
40. Umrao Singh
D-1-548
41. Jagtar Singh
D-1-549
42. Shoban Singh Bhakuni
D-1-523
43. Amarjeet Singh
D-1-531
44. Rajender Singh Dahiya
D-1-575
45. Ishwar Singh Beniwal
D-1-550
46. Sube Ran Yadav
D-1-525
47. Pran Nath Malhotra
D-1-551
48. Tejpal Singh Nagar
D-1-576
49. Suhk Ram
D-1-577
50. Shamsheer Singh Malik
D-1-578
51. Mageshwar Rao
52. T. Sebastian
53. Rajender Singh Rathi
D-1-258
54. Subey Singh Yadav
D-1-336

*U**Subey*

55. Jai Singh
D-1-97
56. Jagdish Chander
D-1-198
57. Hans Raj
D-1-261
58. Ramesh Chand
D-1-310
59. Jagdev Singh
D-1-321
60. Om Kumar
D-1-412
61. Prem Chand
D-1-412
62. Jagdish Kumar Malkit
D-1-431
63. Kishan Ram
D-1-477
64. Savitri Sharma
D-1-151
65. Meelam Lata Goswami
D-1-397
66. Ram Kumar Meena
D-1-621
67. Ramu Lal Meena
D-1-504
68. Girraj Singh
D-1-505
69. Harnath Meena
D-1-571
70. Lala Ram Meena
D-1-572
71. Keewan Singh Gill
D-1-583
72. Jasvir Singh Malik
D-1-593
73. Data RAm
D-1-597
74. Bal Kishan
D-1-519
75. Surender Kumar
D-1-604
- 

76. Gurmeet Singh
D-1-605

77. Rajender Singh
D-1-606

- Respondent Nos. 4 to 77 are served through
respondent No.2 (Commissioner of Police, Police
Headquarter, IP Estate, New Delhi

..Respondents

(By Advocates: Shri Ajesh Luthra for respondents 1 - 3

Shri P.P.Khurana, senior counsel with
Smt. Seema Pandey for respondents 71, 72
75 and 76

Shri Lalit Bhardwaj for respondent 74

None for other respondents)

OA-137/2005

Inspector Bal Krishan
House No.2086/37, Naiwala
Karol Bagh
New Delhi-5

..Applicant

(By Advocate: Shri Lalit Bhardwaj)

Versus

1. Union of India through
Ministry of Home Affairs
North Block, New Delhi
2. Commissioner of Police
Police Head Quarter
IP Estate, New Delhi
3. Special Commissioner of Police
Administration, Police Headquarter
IP Estate, New Delhi
4. Lilaram Jeph
D-1-544
5. Kirorilal Singh
D-1-545
6. Kamal Ram Meena
D-1-511
7. Babu Singh Dardi
D-1-89
8. Harkala Devi Thapa
D-1-3
9. Krishna Dwivedi
D-1-4

29

10. Sushma Sodhi
D-1-5
11. Jinender Kumar
D-1-159
12. Man Kumar
D-1-133
13. Roshan Lal
D-1-149
14. AU Siddiqui
D-1-160
15. Sultan Singh
D-1-561
16. Chander Bhan
D-1-399
17. Gulab Rai
D-1-225
18. Vijay Sule
D-1-515
19. Partap Singh
D-1-592
20. Raghubir Singh
D-1-259
21. Harish Chander
D-1-283
22. Harbans Lal
D-1-161
23. Dharam Chand
D-1-516
24. Puran Singh
D-1-276
25. Prit Pal Singh
D-1-517
26. Surender Parkash
D-1-518
27. Satya Parkash
D-1-580
28. Gurnam Singh Sethi
D-1-573
29. Naresh Chand Aneja
D-1-519
30. Ashutosh Chatterjee
D-1-582

MPL

30

31. Jinder Kumar
D-1-562
32. Mohan Chander
D-1-520
33. Ravinder Singh Grewal
D-1-521
34. Raj Singh
D-1-563
35. Jeet Singh
D-1-522
36. Nand Kishor
D-1-242
37. Bhim Singh
D-1-92
38. Ishwar Singh
D-1-569
39. Surender Kumar Rathi
D-1-574
40. Umrao Singh
D-1-548
41. Jagtar Singh
D-1-549
42. Shoban Singh Bhakuni
D-1-523
43. Amarjeet Singh
D-1-531
44. Rajender Singh Dahiya
D-1-575
45. Ishwar Singh Beniwal
D-1-550
46. Sube Ran Yadav
D-1-525
47. Pran Nath Malhotra
D-1-551
48. Tejpal Singh Nagar
D-1-576
49. ^{al}~~Sukh~~ Ram
D-1-577
50. Shamsheer Singh Malik
D-1-578



51. Mageshwar Rao
52. T. Sebastian
53. Rajender Singh Rathi
D-1-258
54. Subey Singh Yadav
D-1-336
55. Jai Singh
D-1-97
56. Jagdish Chander
D-1-198
57. Hans Raj
D-1-261
58. Ramesh Chand
D-1-321
59. Jagdev Singh
D-1-321
60. Om Kumar
D-1-412
61. Prem Chand
D-1-412
62. Jagdish Kumar Malkit
D-1-431
63. Kishan Ram
D-1-477
64. Savitri Sharma
D-1-151
65. Meelam Lata Goswami
D-1-397
66. Ram Kumar Meena
D-1-621
67. Ramu Lal Meena
D-1-504
68. Girraj Singh
D-1-505
69. Harnath Meena
D-1-571
70. Lala Ram Meena
D-1-572
71. Keewan Singh Gill
D-1-583
72. Jeevan Singh
D-1-583

73. Jasvir Singh Malik
D-1-593

74. Data Ram
D-1-597

- Respondent Nos. 4 to 74 are served through
respondent No.2 (Commissioner of Police, Police
Headquarter, IP Estate, New Delhi

..Respondents

(By Advocates: Shri Ajesh Luthra for respondents 1 - 3
None for other respondents)

O R D E R

Shri M.P. Singh:

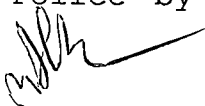
As the issue and facts in both the OAs (OA-2699/2004 and OA-137/2005) are identical, we are disposing them of by passing a common order.

2. In this OA (OA-2699/2004), the applicant has claimed the following reliefs:-

- "i) To quash and set aside the order dtd 20.1.2004 and dated 28.9.2004 vide which the representation of the applicant has been rejected.
- ii) To keep the name of the applicant at the bottom of the promotion list drawn on 16.2.87 (of the year 1987) as done in the case of SI Babu Singh and accordingly, his seniority may be refixed.
- iii) The applicant may be given all the consequential benefits.
- iv) Any other relief which the Hon'ble Tribunal may deem fit & proper and circumstances of the case
- v) Cost of the proceedings may also be awarded in favour of the applicant."

3. The brief facts of the case in OA-2699/2004 are as follows:-

3.1 That the applicant was appointed as a Sub Inspector in Delhi Police since 1979. In the year 1987, he had contributed greatly to the honour of Delhi Police by arresting a dreaded terrorist Harjinder



Singh @ Jinda and Satnam Singh @ Baba who were involved in many hard core terrorist activities through out the country. Harjinder Singh @ Jinda was involved in the murder of General (retired) A.S. Vaidya at Pune. On 22.9.1987, as a result of the brave and gallantry act of the applicant, he along with four of his other colleagues was granted out of turn promotion under Rule 19 (2) of Delhi Police (Promotion & Confirmation) Rules, 1980 (for short Rules, 1980).

- 3.2 That as per Rule 19 (2) of the Rules, 1980, applicant's name ought to have been kept at the bottom of the promotion list drawn up for the year 1987 but the Department did not do so.
- 3.3 That applicant along with one of his colleagues Sub Inspector Babu Singh B-1304 was promoted on out of term basis under Rule 19 (2) of the Rules, 1980. SI Babu Singh on his out of term promotion was placed at the bottom of promotion list drawn on 16.2.1987 and his promotion was regularized w.e.f. 1.1.1988. But in the case of the applicant his name was admitted to promotion list F only w.e.f. 23.5.1988 at the bottom of the promotion list F (Exe.) drawn on 23.5.1988. This order was not communicated to the applicant at all.
- 3.4 On 9.6.2003 and 30.7.2003, the applicant made representations to the respondents to consider placing his name at the bottom of the promotion list drawn up in the year 1987. The Department, vide order dated 22.1.2004, have rejected the representation of the applicant on the ground that it was time barred.
- 3.5 According to the applicant, the Tribunal vide its order dated 19.11.2001 in OA-1133/2001 (**Inspector Prithvi Singh v. Union of India & others**) had directed that the Department should treat the applicant having been placed at the bottom of the seniority list of Inspectors in 1992, the year when



he got promotions out of turn to that grade, with all consequential benefits. Thereafter another OA was filed in which the Tribunal directed the applicant to explain the delay and the respondents were directed to decide the representation on merits. Since the respondents have not granted him the promotion in the rank of Inspector w.e.f. 1.1.1988, as has been done in the case of Shri Babu Singh, the applicant has filed the present OA.

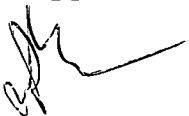
OA-137/2005

4. The facts in this OA are that the applicant was appointed as a Sub Inspector in Delhi Police on 7.4.1977 and was confirmed after two years. He contributed greatly to the honour of Delhi Police by solving a sensational case of double murder.

4.1 That on 23.9.1987 as a result of the brave and gallantry act, he was granted out of turn promotion under Rule 19 (2) of the Rules, 1980.

4.2 That as per Rule 19 (2) of the Rules, 1980, the name of the applicant ought to have been kept at the bottom of the promotion list drawn up for the year 1987 but the respondents did not do so.

4.3 That according to the applicant one Sub Inspector Babu Singh was also promoted on out of term basis under Rule 19 (2) of the Rules, 1980. The applicant and the said Shri Babu Singh were promoted on 23.9.1987. SI Babu Singh on his out of term promotion was placed at the bottom of promotion list drawn on 16.2.1987 and his promotion was regularized w.e.f. 1.1.1988. But in the case of the applicant in this OA, his name was admitted to promotion list F only w.e.f. 23.5.1988 at the bottom of the promotion list F (Exe.) drawn on 23.5.1988. This order was not communicated to the applicant at all.



35

4.4 Since a criminal case was pending against the applicant. His promotion to the rank of Sub Inspector continued to be on ad hoc basis. He was confirmed and regularized on 4.6.2002 w.e.f. 26.9.1990. Immediately after the order of confirmation, the applicant made representations to the official respondents to consider placing his name at the bottom of the promotion list drawn up in the year 1987. The Department rejected the said representations of the applicant only on the ground of being time barred.

5. The respondents in their reply have submitted that cause of action, if any, arose on 3.7.1989 when the promotion of the applicants in the rank of Inspector was regularized. They did not file any representation/objection etc. against these notifications. The representations, however, were filed after a gap of 14 years and 13 years, which were rejected vide communication dated 22.1.2004 and 28.1.2004 respectively. This was done in the light of the judgment of the Hon'ble Supreme Court in **K.R. Mudgal & others v. R.P. Singh & others**, (1986) 4 SCC 531, which stipulates that the promotion should not be disturbed after a long lapse of time and Court should not entertain petitions challenging seniority after an inordinate delay.

5.1 The names of these applicants and also 10 other similarly situated Inspectors were placed at the bottom of promotion List 'F' (Exe.) w.e.f. 23.5.1988 and regularized w.e.f. 26.9.1988. A copy of the panel, i.e., promotion list 'F' (Exe.) drawn on 23.5.1988 notified vide order dated 23.5.1988 and notification dated 3.7.1989 regarding placement of name of the applicants and regularization of promotion are marked as Annexure R-1 collectively. For the purpose of seniority, the applicant and others have also been placed in the same order of seniority. Thereafter, the Department has published many integrated seniority lists of all Inspectors of Delhi Police and the Department had invited the



objections from the aggrieved persons with regard to placement in the said list but the applicants did not file any representation/objection in this regard.

6. Reply has been filed by private respondents 71, 72, 75 and 76 in OA-2699/2004. In their reply, they have stated that not only the name of the applicants, but the names of these private respondents also ought to have been kept at the bottom of promotion list drawn in the year 1987. According to them, it was not only the applicants and SI Babu Singh were promoted vide order dated 22.9.1987 but these private respondents were also promoted by the same order dated 22.9.1987. Shri Babu Singh was picked out for a favourable treatment and his promotion was regularized w.e.f. 1.1.1988 while in the case of the applicants and these private respondents, the seniority was given w.e.f. 26.9.1988. On account of this distortion, while name of Babu Singh appears at Sl.No.169, the names of the applicants appear at Sl.No.236 (Bal Kishan) and Sl.No.240 (Kapoor Singh) and the names of private respondent Nos.71, 72, 75 and 76 appear at Sl.Nos.233, 234, 237 and 238 respectively.

6.1 They have further stated that while supporting the case of the applicants, the answering respondents are also entitled to the same benefit, which has been given to SI Babu Singh. They have also submitted that the direction be issued to the official respondents to keep the name of the applicants as well as the answering respondents at the bottom of the promotion list drawn on 16.2.1987 as has been done in the case of SI Babu Singh, thereby re-fixing the seniority of the applicants and the answering respondents and accordingly the consequential benefits be granted to them.

7. The reply has also been filed by private respondent No.74 in OA-2699/2004 on the same lines.

8. The reply in OA-137/2005 has also been filed by the official respondents on the same lines as the reply in OA-2699/2004.

9. We have heard the learned counsel appearing for the applicants, official respondents as well as private respondent Nos. 71, 72, 75 and 76 in OA-2699/2004.

10. Learned counsel appearing for the official respondents has submitted that they have rejected the representations of the applicants on the ground of limitation alone. According to him, the seniority list was published from time to time but the applicants have not made any representation during last 13-14 years. He has drawn our attention to the seniority list issued by them on 26.4.1994, 20.9.1996, 26.12.1997, 13.9.1999 and 25.7.2002. He has submitted that these seniority lists have been published in the official gazette of the Delhi Police. Therefore, the applicants cannot take the ground that this was not circulated to them. To support his claim, learned counsel for official respondents has relied upon the several judgments of the Hon'ble Supreme Court including these following cases:

1. **K.R. Mudgal & others v. R.P. Singh & others**, 1986 (4) SCC 531
2. **V. Bhasker Rao & others v. State of A.P. & others**, (1993) 3 SCC 307
3. **B.S. Bajwa & another v. State of Punjab & others**, 1998 SCC (L&S) 611
4. **N.S. Mehta & others v. Union of India & others**, AIR 1977 SCC 1673

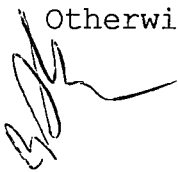
11. Relying on **K.R. Mudgal's case** (supra), Shri Ajesh Luthra, learned counsel has stated that the persons who are sleeping over their rights for such a long time and who do not represent for their right, cannot be granted the benefit at this stage. This will unsettle the settled position long back. In the said case, the Apex Court has held as under:

"2. At the outset it should be stated that it is distressing to see that cases of this kind where the validity of the appointments of the officials who had been appointed more than 32 years ago is questioned are still being agitated in courts of law. A government servant who is appointed to any post ordinarily should at least after a period of 3 or 4 years of his appointment be allowed to attend

to the duties attached to his post peacefully and without any sense of insecurity. It is unfortunate that in this case the officials who are appellants before this Court have been put to the necessity of defending their appointments as well as their seniority after nearly three decades. This kind of fruitless and harmful litigation should be discouraged."

12. On the other hand, learned senior counsel appearing for private respondents 71, 72, 75 and 76 in OA-2699/2004 has submitted that the applicants are claiming seniority in the grade of Inspector only and none of the private respondents has been promoted to the next higher post and, therefore, the principle to unsettle the settled position does not apply in these cases. It is only grant of seniority to the applicants at proper place and no monetary benefit is going to accrue to the applicants. He has also submitted that the judgments of the Apex Court relied upon by the official respondents are not applicable in the present case. The judgments relied upon by the learned senior counsel for these private respondents are applicable only in the cases where the seniority of a group of officers, vis-à-vis, another category of officers, is adversely affected and particularly in the case where two or three promotions had already taken place. In this case, no promotion as yet has taken place. According to the learned senior counsel ~~for~~ the said private respondents, none of the seniority lists has ever been supplied to the applicants, nor has it been ever displayed on the notice board. Therefore, the answering private respondents and the applicants could not know about their position in the combined integrated seniority list.

13. Learned senior counsel has drawn our attention to the letter dated 26.4.1994, wherein it was stated that "Enclosed please find an integrated seniority list of confirmed Inspectors of Delhi Police for favour of information to all concerned against proper receipt." He has submitted that the plea of the official respondents that they have sent the seniority list to the applicants as well as to the private respondents is not correct. Otherwise, the respondents be directed to produce the



proper receipt of having served a copy of the same to the applicants. He has further submitted that as soon as the applicants came to know about their position in the integrated seniority list, they have submitted the representations, which have been rejected by the Department and thereafter they have approached this Tribunal by filing the present OAs.

14. Learned counsel appearing for the applicant in OA-137/2005 and for private respondent No.74 in OA-2699/2004 has adopted the submissions made by learned counsel for applicant in OA-2699/2004 and learned senior counsel for private respondent Nos. 71, 72, 75 and 76. In that OA, he has, however, added that the applicant in this OA (OA-137/2005) was involved in a criminal case and continued to hold to the post of Inspector ^{on ad-hoc basis} and, therefore, his name was not included in the integrated combined seniority list issued by the respondents from time to time. His name has been included in the seniority list for the first time in the year 2002. Thereafter he made representation against the same, which was rejected by the respondents. Hence he has filed the present OA.

15. Learned senior counsel for private respondent Nos. 71, 72, 75 and 76 has relied upon the following judgments of the Hon'ble Supreme Court:-

1. **Ramchandra Shankar Deodhar & others v. The State of Maharashtra & others**, (1974) SCC 317
2. **Lt. Governor of Delhi & others v. Dharampal & others**, (1990) 4 SCC 13

16. We have given careful consideration to the rival contentions made by the parties' learned counsel.

17. The facts of these cases, as stated by the applicants, are not disputed by the official respondents. The only ground taken by the official respondents for rejecting the requests/representations of the applicants for assigning the same seniority as has been granted to Shri Babu Singh is of limitation. It is an admitted fact that the applicants have yet not

[Handwritten signature]

been promoted to the next higher grade and, therefore, if the relief is granted to the applicants, it will not involve reversion of any of the private respondents. We also find that the respondents have not supplied the integrated combined seniority list issued by them from time to time to the applicants under proper receipt, as stated by them in their letter dated 26.4.1994. Moreover, the gazette of the Delhi Police is not a published document, which is available in the open market.

18. We also find that the official respondents have failed to prove that the applicants and the private respondents are not entitled to the same benefit as has been granted to SI Babu Singh and, therefore, in our considered opinion, this amounts to hostile discrimination.

19. After hearing the learned counsel for the official respondents, we find that there is a considerable force in the arguments advanced by the learned counsel for applicants as well as private respondents 71, 72, 75 and 76.

20. In view of facts mentioned above, we are of the considered view that the applicants and the aforesaid private respondents have been able to make out their case and, therefore, we allow these OAs. Impugned orders are quashed and set aside. The official respondents are directed to consider the cases of the applicants, private respondents 71, 72, 75 and 76 and similarly situated other private respondents for grant of seniority as has been done in the case of SI Babu Singh B-1304 and re-fix their seniority. This exercise shall be completed within a period of four months from the date of receipt of a certified copy of the present order. No costs.

21. Registry to place a copy of this order in OA-137/2005.


(M.P. Singh)
Vice Chairman (A)


(B. Panigrahi)
Chairman

/sunil/