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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 168/2004

with

O.A. NO. 204/2004

New Delhi this the 17th day of January, 2007

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)
HON'BLE MRS. CHITRA CHOPRA, MEMBER (A)

O.A. 168/2004

Sub Inspector Yash Pal Singh No. 76/D
S/o Shri Balbir Singh,
R/o Flat No. 8-C, Block-11,
Pocket-B, Phase-IV, Ashok Vihar,
Delhi.

Applicant.

(By Advocate Shri Sachin Chauhan)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
 2. Commissioner of Police,
Delhi,
Police Headquarters,
I.P. Estate, MSO Building,
New Delhi.
 3. Joint Commissioner of Police,
Headquarters,
Police Headquarters, I.P. Estate,
MSO Building,
New Delhi.
 4. Dy. Commissioner of Police,
Headquarters (Estt.),
Police Headquarters, I.P. Estate,
MSO Building, New Delhi.
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5. Rajinder Singh, 1382/D,
through Commissioner of Police,
Delhi Police, PHQ MSO Building,
I.P. Estate,
New Delhi.

... Respondents.

(By Advocate Shri Ajesh Luthra)

O.A.204/2004

Asstt. Sub Inspector Omvir Singh,
No. 1506/ND (now 4679/D),
S/o Shri Jagdish Singh,
R/o A-4/3, Police Station,
Defence Colony,
New Delhi.

... Applicant.

(By Advocate Shri Sachin Chauhan)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Commissioner of Police,
Delhi,
Police Headquarters,
I.P. Estate, MSO Building,
New Delhi.
3. Joint Commissioner of Police,
Headquarters,
I.P. Estate, MSO Building,
New Delhi.
4. Dy. Commissioner of Police,
Headquarters (Estt.),
I.P. Estate, MSO Building,
New Delhi.
5. Gurdial Singh, No.126-L,
through Commissioner of Police,
I.P. Estate, MSO Building,
New Delhi.

... Respondents.

(By Advocate Shri Ajesh Luthra)



ORDER (ORAL)

Hon'ble Mrs. Meera Chhibber, Member (J).

Both these O.As have been clubbed together and have raised common grievance and both the matters were referred to the Full Bench, which were decided by common judgment on 11.5.2006, therefore, they are being decided by a common order.

2. In O.A. 168/2004, applicant has sought seniority in the rank of Sub-Inspector with effect from the year 1995 in pursuance of Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980 with all consequential benefits, including seniority, promotion and pay and allowances while in O.A. 204/2004, applicant has sought seniority to the rank of ASI with effect from the year 1992 in pursuance of Rule 19 (ii) with all consequential benefits.

3. In both the cases, applicants were given out of turn promotion by Delhi Police under Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980. To be more precise, Shri Yashpal Singh was given out of turn promotion as Sub Inspector vide order dated 19.8.1995 (page 20). He was brought to Promotion List E-1 w.e.f. 1.9.2000 for training in Upper School Course, in terms of Rule 16 (i) of Delhi Police (Confirmation and Promotion) Rules, 1980 vide order dated 12.10.2000 (page 15) and on Promotion List E-II with effect from 22.08.2001 (page 16 at 17). He was regularized vide order dated 23.08.2001 w.e.f.

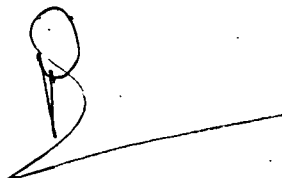


23.8.2001 in terms of Rule 16 (i) of Delhi Police (Confirmation and Promotion) Rules, 1980 and placed at Serial No. 294.

4. In O.A. 204/2004, applicant, Shri Ombir Singh, was given out of turn promotion as ASI vide order dated 30.10.1992 (page 33). His name was admitted to Promotion List D-II after passing Intermediate School Course, w.e.f. 29.4.1997 as per Rule 15 (i) of Delhi Police (Confirmation and Promotion) Rules, 1980, vide order dated 29.4.1997 (page 18). He was regularized as ASI w.e.f. 18.9.1997, in terms of Rule 19 (ii) at Serial No. 19 vide order dated 19.9.1997 (page 17). In both these cases, applicants had submitted that since they were given out of turn promotion in the year 1995 and 1992 respectively, their seniority should be counted in the promoted post from the respective dates.

5. Counsel for the applicants had relied on the judgment dated 19.11.2001 in the case of **Inspector Prithvi Singh Vs. Union of India & Ors.** (OA 1133/2001) while respondents had relied on the judgment in the case of **Gurdeep Singh Vs. Union of India & Ors.** (OA 728/200), decided on 22.5.2001. However, in both the above said cases, since divergent views were expressed, these O.As were referred to the Larger Bench with the following question :

"From which date the seniority of the persons who are promoted under Sub-Rule (ii) to Rule 19 of Delhi Police (Confirmation and Promotion) Rules, 1980 is to be counted."



Full Bench after considering the rival contentions of both the parties gave its finding as under :

"The seniority of persons promoted under Sub-Rule (ii) of Rule 19 of Delhi Police (Confirmation and Promotion) Rules, 1980 is to be placed at the bottom of the promotion list drawn up in that year when they are considered for regularization under Rules 12-17 of the said Rules".

The matters were accordingly directed to be placed before the Division Bench for final orders.

6. From the above paragraph, it is clear that the main contention raised by the applicants has already been decided by the Full Bench against the applicants, therefore, there is very little that remains to be looked into by the Division Bench.

7. The only point raised by the counsel for applicants was that under Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980, the words "For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year" would relate to the year when out of turn promotions are given. However, this contention has to be rejected outright because the Full Bench clarified the situation that the seniority of persons promoted under Sub-Rule (ii) of Rule 19 of Delhi Police (Confirmation and Promotion) Rules, 1980 is to be placed at the bottom of the promotion list drawn up in that year when they are considered for regularization under Rules 12-17 of the said Rules. Therefore, this point stands concluded already by the Full Bench itself. The same is accordingly rejected.



8. Nothing more remains as far as O.A. 168/2004 is concerned because the only relief sought by the applicant is that he should be given seniority in the rank of Sub-Inspector with effect from the year 1995 in pursuance of Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980 with all consequential benefits, which has been negated by the Full Bench.

9. As far as O.A. 204/2004 is concerned, applicant has stated that there were other persons, who were given out of turn promotion subsequently than the applicant yet they have been placed above him in the seniority list of ASIs. He has also quoted the example that ASI Suresh Pal, who was given out of turn promotion vide order dated 25.8.1995, was placed in the promotion list D-1 (Ex.) w.e.f. 16.3.1995 i.e. the same year of out of turn promotion in terms of Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980 vide order dated 01.01.1996. He thus submitted that applicant ought to have been admitted in the promotion list D-1 in the year 1992 i.e. the date of panel drawn for the same year 1992 in the same manner as has been followed in the case of ASI Suresh Pal. He has thus submitted that applicant has been discriminated against inasmuch as the persons who were given out of turn promotion after him have been placed above him in seniority list of ASIs. In other words, his grievance is with regard to fixing of the seniority qua the other out of turn promotees in the rank of ASI. Counsel for the respondents, on the other hand, submitted that if

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his grievance was inter se seniority with respect to other out of turn promotees, he ought to have impleaded those persons by name. Not having done so, O.A. is liable to be dismissed for non-joinder of necessary parties. He further submitted that applicant even sought amendment in the memo of parties but instead of impleading ASI Suresh Pal whose name has been specifically taken in the pleadings, he impleaded one Shri Gurdial Singh. On merits, he submitted that no Departmental Promotion Committee was convened during the year 1992 to 1994. The first promotion list was drawn in the year 1995. Accordingly, applicant was placed at the bottom of the promotion list drawn on 16.3.1995, as per Rule 19 (ii) of Delhi Police (Confirmation and Promotion) Rules, 1980 vide Notification dated 01.01.1996. Therefore, it is wrong to suggest that the respondents arbitrarily delayed in deputing him for the Intermediate School Course. They have submitted that applicant has correctly been accorded his seniority and regularization as per the rules, which is in consonance with the judgment given by this Tribunal in OA 728/2000 in the case of **Gurdeep Singh Vs. UOI & Ors.** As far as inter se seniority qua the other out of turn promotees is concerned, he has explained that in the substantive rank, applicant was very much junior to the other persons. Although it is correct that he was promoted as ASI on out of turn promotion on temporary and ad hoc basis w.e.f. 28.10.1992 but at that time he had not completed his probation period in the rank of Head Constable. He completed the probation period only w.e.f.

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6.6.1993. As such being junior in the substantive rank of Head Constable, his name was placed at the bottom list drawn on 16.3.1995. In any case, since he has been assigned seniority as per the rules, applicant cannot have any grievance.

10. It is seen that initially applicant had not impleaded any of the other out of turn promotee as respondents but during the pendency of the O.A. he did file an application for impleading one Shri Gurdial Singh as a private respondent. Interestingly, in the order dated 19.9.1997 (page 17) whereby 22 persons were regularized who were earlier granted ad hoc promotion on out of turn basis to the rank of ASI w.e.f. 18.9.1997, no person by the name of Gurdial Singh exists, therefore, it is not understood why Shri Gurdial Singh has been impleaded by the applicant or how he can be stated to have impleaded in a representative capacity, as suggested by the counsel for applicant. The net result is, that none of the persons who were regularized (and were earlier granted ad hoc promotion on out of turn basis) have been impleaded as a private respondent. Therefore, applicant cannot be heard of challenging the seniority assigned to those persons without impleading them as a party. Even otherwise, as per applicant's own averments, the person at Serial No. 22, namely, Shri Vidhya Dhar was given out of turn promotion prior to the applicant also yet he was placed at Serial No. 22 in order dated 19.9.1997 obviously because he must have been junior in the substantive rank of HC. In fact, how seniority of those persons who are given out of promotion under Rule 19 (ii) of Delhi Police



(Confirmation and Promotion) Rules, 1980 is to be fixed, is laid down in the Rule itself. Rule 19 (ii) makes it clear that out of turn promotion shall be treated as ad hoc and will be regularized when the persons so promoted have successfully completed the training course prescribed like Upper School Course, if any, and for purposes of seniority list at the bottom of the promotion list drawn up in that year, meaning thereby that regular promotion had to be given as per the rules, for which general principles are laid down in Rule 5 of Delhi Police (Confirmation and Promotion) Rules, 1980, which clearly stipulates that "Promotions from one rank to another and from lower grade to the higher grade in the same rank shall be made by selection tempered by seniority".

Therefore, while giving the regular promotions, seniority is to be fixed in terms of the seniority in the lower rank. It is not the case of the applicant that he has been placed below his own junior in the rank of Head Constable. Therefore, we find no merit even in this contention.

11. In view of above discussion, both the O.As are devoid of any merit. The same are accordingly dismissed. No order as to costs.

12. Let a copy of this order be placed in O.A. 204/2004.

(MRS. CHITRA CHOPRA)
MEMBER (A)

(MRS. MEERA CHHIBBER)
MEMBER (J)

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