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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.1050/2004**

**New Delhi**, this the <sup>10</sup><sub>th</sub> day of **December**, 2004

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman**  
**Hon'ble Mr. S.K. Malhotra, Member (A)**

Head Constable Yashvir Singh  
S/o Shri Bhim Singh  
R/o House No.31, Ganga Enclave  
Loni Border  
Gaziabad (Uttar Pradesh). .... Applicant

**(By Advocate: Sh. Ashwani Bhardwaj proxy for Sh. Sachin Chauhan)**

**Versus**

1. Commissioner of Police  
Delhi.  
Police Headquarters, I.P.Estate  
M.S.O.Building, New Delhi.
2. Dy. Commissioner of Police  
Headquarters  
Police Headquarters  
I.P.Estate, M.S.O.Building  
New Delhi.
3. Union of India through  
Secretary  
M/o Home Affairs, North Block  
New Delhi. ... Respondents

**(By Advocate: Sh. Harvir Singh)**

**O R D E R**

**By Mr. Justice V.S. Aggarwal:**

Applicant (Head Constable Yashvir Singh) has joined Delhi Police as Constable. He was promoted to the rank of Head Constable in 1991. The applicant was given out of turn promotion to the rank of Assistant Sub Inspector under Rule 19(ii) of Delhi Police (Promotion and Confirmation) Rules, 1980 for showing exceptional courage and devotion to duty. The order had been passed on 28.9.1996. Vide the impugned order dated 3.3.2004,

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(S)

the applicant has been reverted to the rank of Head Constable. By virtue of the present application, he seeks to assail the said order.

It reads:

"DATED 3/3/2004

No.16405 CB-IV/PHQ, DISCONTINUATION:- The adhoc promotion granted to HC (Exe.) Yashbir Singh No.537/NW, 541/SB(PIS No.28790176) in the rank of ASI (Exe.), w.e.f. 28.9.1998 vide this Hdqrs. Notification No.7428—(sic)/CB-VI, dated 28.9.1998 under Rule-19(ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 is hereby discontinued with immediate effect.

Sd/-  
(D.S.NORAWAT)  
DEPUTY COMMISSIONER OF POLICE  
HDQRS. (ESTT.) DELHI.

No.16406-24/CB-IV/PHQ, dated, New Delhi, the 3/3/2004"

2. The grievance of the applicant is that his record is clean and unblemished and only a major punishment of temporary reduction in pay for one year had been inflicted upon him. The applicant had challenged the same by filing **OA 2640/2003** in this Tribunal. Otherwise also, it is contended that order has been passed without putting him to notice and in any case in terms of Sub-Rule (ii) to Rule 19, irrespective of the training, the seniority of the person who has been promoted on out of turn basis has to be reckoned from the year in which the promotion has been granted. The applicant has been continuing on ad hoc promotion for the past six years and could not have been reverted all of a sudden.

3. The application has been contested.

4. It is not in dispute that the applicant had been granted ad hoc promotion to the rank of Assistant Sub Inspector with effect from 28.9.1998 in terms of Rule 19(ii) of the Delhi Police



(Promotion and Confirmation) Rules, 1980. In the said order, it has been mentioned that the applicant has no claim for seniority and is liable for reversion at any time without assigning any reason. The ground for reverting the applicant has been stated to be that a departmental inquiry has been initiated against him on the allegation that while he was posted in Special Staff of North-West District, he had proceeded on five days Casual Leave with four days permission for Saturday and Sundays on 4.6.1999. He failed to deposit the Government Pistol along with ten live cartridges either at District Lines Kot or with Inspector Special Staff. He was arrested and a case was registered against him with respect to an offence punishable under Section 304A of Indian Penal Code. His service Pistol was deposited in the said case. He was acquitted by the Court of the Judicial Magistrate, Kotdwar on 13.10.1999. Thereafter, a departmental inquiry had been restarted and the applicant had been awarded a major punishment of forfeiture of one year approved service temporarily entailing reduction in his pay for a period of one year. The appeal filed by him was dismissed and, therefore, he had been reverted.

5. We have heard the parties' counsel and have seen the relevant record.

6. The learned counsel for the applicant relied upon the decision of this Tribunal in the case of **INSPECTOR PRITHVI SINGH v. UNION OF INDIA & OTHERS**, O.A.No.1133/2001, decided on 19.11.2001 to contend that for all purposes, the entire Sub Rule (ii) to Rule 19 has to be taken together and that the said Rule has to be read harmoniously and consequent reversion of the

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applicant was not justified without notice. The following findings of this Tribunal have been relied upon:

“5. Admittedly, the applicant has got his promotion in 1988 as SI and in 1992 as Inspector, although both of which have been as reward for his acts of gallantry in apprehending dreaded criminals and effecting seizures of a huge quantities of arms and ammunition. These promotions have been ordered in terms of Rule 19 (ii) of the Rules. For all purposes the entire sub-rule has to be taken together. The last sentence of Rule 19(ii) clearly states that the persons who are awarded out of turn promotion for exceptional gallantry and devotion to duty etc. for the purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year. (Emphasis added). Therefore, the arguments advanced by the learned counsel for the respondents to the contrary are totally irrelevant. Rule 19 of the Rules which deals with adhoc promotion in general, cover three distinct categories. Rule 19(ii) relates to ad hoc promotion orders by the Commissioner of Police when there all no approved names on promotion lists, and vacancies exist. Rule 19(ii) relates to grant of out of turn promotion ordered to encourage outstanding sportsmen, marksmen, and those who have shown exceptional gallantry and devotion to duty and Rule 19(iii) deals with ad hoc promotion for being posted in Police Training School and the Recruits Training Centre. All these sub-rules should be read harmoniously and one cannot be cited against the applicant so as to negate its effect as the respondents have stood to do. The applicant having been promoted in terms of Rule 19(ii) there was no reason why his request for placement at the bottom of the seniority list in the year in 1988 as Sub Inspector and in 1992 as Inspector could have been rejected, as the same was clearly covered by the said sub-rule. The impugned order rejecting the representation has no sanction in law, the same has to be quashed and set aside.”

It becomes unnecessary to go into this controversy because of the decision of the Delhi High Court in the case of **GOVT. OF NCT OF DELHI & OTHERS v. RAJBIR SINGH**, 2003 (3) AISLJ 436. The Delhi High Court held that the promotions which are on temporary



basis, do not confer any right and the ad hoc promotions are also dependent on their continued good work and conduct. We take liberty in reproducing in extenso the entire paragraph which reads:

“4. Mr. Shyam Babu, the learned Counsel appearing on behalf of the respondent, on the other hand, would contend that the language used in Rule 19(ii) of the said Rules is absolutely clear and explicit. Accordingly to the learned Counsel, having regard to the fact that no training course is required to be undergone by the Sub-Inspector for his promotion to the post of Inspector, the question of the respondent being promoted on ad hoc basis would not arise and in that view of the matter, the said promotion dated 5.8.1994 must be held to have been done on regular basis. In support of the said contention, reliance has been placed on a decision of the Apex Court in *Rishal Singh v. State of Haryana and Ors.*, 1994(2) SCALE 490.

5. Rule 19(ii) of the said Rules reads thus:

“To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Such promotions shall not exceed 5 per cent of the vacancies likely to fall vacant in the given year not in the rank. Such promotions shall be treated as ad-hoc and will be regularized where the persons so promoted have successfully completed the training course prescribed like (Lower School Course), if any. For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year.”

A bare perusal of the aforementioned Rule would clearly go to show that for the purpose of seniority of the respondent herein, even if at one point of time, he was promoted on out of turn basis, he was to be placed at the bottom of the promotion list drawn up for that year.

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6. It is not in dispute that regular promotion in this case has been made within a period of one week, the respondent along with others had also been promoted on regular basis. Once he was promoted on regular basis his position in the said seniority list would be as per rules. Even if it be considered that he had been promoted in terms of the aforementioned Rule 19(ii) of the said Rules, his seniority would be at the bottom of the list.

7. Furthermore, the order of promotion dated 5.8.1994 is as follows:

"No.26573/CB-VII Promotion:  
The following Sub-Inspector (Ex.), ASIs (Ex.), Head Constables (Ex.), Head Constable (Driver), Constable (Ex.) and Constable (Driver) have been promoted to officiate as Inspector (Executive), Sub-Inspector (Executive), Asstt. Sub-Inspector (Executive), Asstt. Sub-Inspector (Driver), Head Constable (Executive) and Head Constable (Driver) with effect from 5.8.1994, on purely temporary and ad hoc basis, under Rule 19(ii) of Delhi Police (Promotion and Confirmation) Rules, 1980. They will have no claim for seniority etc., and are liable for reversion at any time without assigning any reason. Their ad hoc promotion will be dependent on their continued good work and conduct during the period of such promotion:

1. S.I. Rajbir Singh, D-162

Sd/-  
(Ranjit Narayan)  
Deputy Commissioner of Police  
HD QRS.(I): Delhi"

8. It may be true that the promotions made in favour of the respondent along with other candidates were out of turn promotions, but the said promotions were on temporary basis. They could have been reverted at any time without assigning any reason therefore. Such ad hoc promotions were also dependent on their continued good work and conduct during the period of such promotions."

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7. This puts an end to the challenge of the applicant. Because his work and conduct was not found satisfactory, he could be reverted and to that extent, the plea must fail.

8. However, our attention was drawn to the fact that the applicant had challenged the punishment that had been awarded in departmental proceedings by filing OA No.2640/2003 and that the same had been decided on 28.7.2004. Therein, this Tribunal had held that the penalty awarded to the applicant was excessive the matter had been remitted to the disciplinary authority to pass an appropriate order in the light of the findings that had been recorded therein. This Tribunal had recorded that the penalty awarded was excessive and that it was a technical dereliction of duty.

9. It was on the basis of the penalty which was the subject matter of controversy in OA 2640/2003 that the reversion had been directed. Once the said penalty order has been set aside and it has been directed that a fresh order should be passed, which has not been passed as yet, we dispose of the present application directing:

- a) after the penalty order in terms of the decision in OA 2640/2003 is passed, the claim of the applicant pertaining to his reversion should be re-considered. This should be done preferably within three months of the receipt of the certified copy of the present order.

*S.K. Malhotra*  
(S.K. Malhotra)  
Member (A)

*V.S. Aggarwal*  
(V.S. Aggarwal)  
Chairman