

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH- NEW DELHI

12

CA NO. 566/2004

New Delhi this the 1st February, 2005

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI S.A. SINGH, MEMBER(A)

Kinkara Talwar (1918-D)  
ASI (Executive) (Women)  
W/o Sh. Yogesh Khanna  
O-3/5, Andrews Ganj Police Colony,  
New Delhi. ...Applicant.  
(By Advocate: Shri Shyam Babu)

Versus

1. Govt. of NCT of Delhi,  
Through its Chief Secretary,  
Players Building  
I.P. Estate, New Delhi.
2. Commissioner of Police Delhi  
Police Head Quarters,  
IP Estate, New Delhi.
3. Addl. Comm. of Police (Establishment)  
Police Head Quarters  
I.P. Estate, New Delhi.
4. Deputy Commissioner of Police (Establishment)  
Police Head Quarters, IP Estate, New Delhi. ... Respondents.

(By advocate: Shri Ajesh Luthra)

ORDER (OPAL)

By Shri Justice V.S. Aggarwal, Chairman

The applicant is Assistant Sub Inspector (ASI) in Delhi Police. By virtue of the present application, she seeks setting aside of the orders dated 22.10.1999, 6.1.2000, 21.7.2003 and 24.9.2003 and to issue a direction to bring her name in the promotion list E-1 (Executive) (Woman) to the post of Sub Inspector.

2. Some of the relevant facts can conveniently be delineated to precipitate the question in controversy.

3. It is not disputed that the applicant joined as ASI on 22.3.1988. She was confirmed on 23.6.1991 and was allowed to cross efficiency bar w.e.f. 01.3.1997.

ls Agg

4. The Departmental Promotion Committee (DPC) meeting took place to consider various ASIs (Woman) for the post of Sub Inspector on 27.1.1999. The said DPC did not recommend the claim of the applicant for promotion and an order was issued by the Deputy Commissioner of Police whereby certain juniors to the applicant were promoted.

5. The applicant submitted a representation on 23.9.1999. The Additional Commissioner of Police on 22.10.1999 has passed an order rejecting the said representation, which reads:

Reference your office letter No.3859 /FOR / CR-I dated 30.9.999, on the subject cited above.

WASI (Ex.) Kinkara Talwaar No.1918/D may, please be informed that her name was considered by the DPC which met on 27.1.999 for inclusion in promotion list E-I(Ex.). After evaluating her service record and ACRs for the preceeding 6 years, the DPC graded her unfit for the said list because she could not achieve the benchmark of more than 50% good ACRs, the norm fixed by the DPC.

(S.N.Gaur ) CA PHQ  
FOR ADDL.COMMISSIONER OF POLICE  
ESTABLISHMENT : DELHI."

6. The applicant submitted another representation, which was also rejected on 06.1.2000. It reads:

Subject: Representation Cum Appeal of WASI (Ex.) Kinkar Talwar No.1918/D against non inclusion of her name to promotion list E-I (Ex.) (Women).

Reference your office letter No.6055/For/CH/CR/Ist dated 10.12.99, on the subject cited above.

Representation of WASI (Ex.) Kindara Talwar, No.1918/D has been considered in this Hdqrs. but could not be acceded to.

The WASI may please be informed accordingly.

(S.L.Bhardwaj )CA/PHQ  
for Addl. Commissioner of  
Police Establishment : Delhi."

7. Thereafter, the applicant submitted another representation / appeal to the Commissioner of Police after three years on 24.2.2003. The same was rejected on 21.7.2003 vide following orders:

Please refer to your office No.4605/SD/Estt.III) dated 27.2.2003, on the subject cited above.

*AS Ag*

The decision already conveyed vide this Hdqrs. U.O. No.A/9/3(4)/98/52709-701/CB-II dated 22.10.99 in respect of W/ASI(Exe.) Kinkara Talwar, No.1918-D (copy enclosed) will hold good. She may please be informed accordingly."

(B.S.Bamela)ACP/CB/PHQ  
for Deputy Commissioner of  
Police HDQRS(Estt.) : Delhi."

It was followed by another order on 24.9.2003, which is reproduced for the sake of facility:

Subject: Request of W/ASI Kinkara Talwar No.1918-D for admission to promotion list E-I (Executive) w.e.f. Fe.1999.

Kindly refer to your office memo. No.37983/GD(Estt.III) dated 11.9.2003 on the subject cited above.

The representation submission by W/ASI (Exe.) Kinkara Talwar, No.1918-D received vide your office memo, under reference has been considered and it has been observed that the name of W/ASI (Exe.) Kinkara Talwar, No.1918-D was not included in the promotion list E-I(Exe.) by the Departmental Promotion Committee met on 27.1.99 after evaluating her service record and ACRs for the preceeding six years, the DPC graded her unfit due to none achievement of bench mark fixed for 3 Good or above ACRs. The W/ASI(Exe.) was also informed about the facts by DCP/Hdqrs.(Estt.) in the O.R., held on 18.7.2003 and the decision in this regard was already conveyed vide this Hdqrs. U.O.No.55656/CB-II dated 21.7.2003.

The W/ASI (Exe.) may be informed accordingly under her proper receipt.

(B.S.Bamela)ACP/CB/PHQ  
for Deputy Commissioner of  
Police HDQRS(Estt.) : Delhi."

8. On behalf of respondents, the application has been contested and stated that it is barred by time.
9. We have heard the parties' counsel and have seen the relevant records.
10. Learned counsel for applicant urges that since the representation had been considered and rejected finally on 24.9.2003, it gave the cause to the applicant to file an application within one year, which the applicant has so done and, therefore, the application must be taken to be within time.
11. In the peculiar facts and circumstances of the case, we do not subscribe to the view of the learned counsel.
12. We have already reproduced the sequence of events in which the representations had been rejected, which clearly shows that applicant's representation had been rejected on <sup>22.10.99</sup>~~24.9.2003~~. She had been informed about

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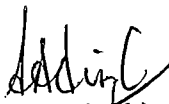
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15

it. She did not approach the appropriate authorities for three years to take any action but submitted a fresh representation on 24.2.2003. In reply thereto, an order was communicated on 21.7.2003, which we have reproduced above, communicating to the applicant that the earlier decision will hold good. Subsequent to the reply, order dated 24.9.2003 again refers to the communication dated 21.7.2003. Her subsequent representation had been rejected reiterating the earlier reasoning. In the facts and circumstances of the case, therefore, it would be stated that it was not fresh application of mind entertaining the subsequent representation which may provoke the learned counsel to contend that this gave fresh cause of action. All these orders have to be read in sequence.

13. The net result would be that respondents reiterated only their decision in the subsequent orders. They have not re-considered their earlier views. The applicant after rejection of her request in the year 2000, had not taken any steps. There is no application for condonation of delay. The only logical conclusion, therefore, would be that the application is barred by time and the plea that there was subsequent order which would extend the period of limitation, in the absence of any application for condonation of delay, the O.A. must fail. It is unnecessary to go into the merits of the case.

14. For these reasons, the O.A. being without merit fails and is dismissed.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

/kdr/