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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1792 of 1992

NEW DELHI, THIS THE 4th DAY OF DECEMBER, 1997.

HON'BLE SHRI JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE SHRI S.P.BISWAS, MEMBER(A)

Shri Suraj Bhan (Belt No.2751/PCR/NW),
Son of Shri Molar Ram,
P.S. Samaipur Badli,
Delhi.

... APPLICANT

(BY ADVOCATE SHRI G.D.GUPTA)

vs.

1. Union of India
through the Secretary to the
Government of India
Ministry of Home Affairs
North Block
New Delhi-110001.

2. The Administrator of Union
Territory of Delhi/Lt.Governor
Delhi Administration
Raj Niwas
Delhi-110054.

3. The Commissioner of Police.
Police Headquarters
M.S.O.Building, I.P.Estate
New Delhi-110002.

4. The Commandant
Delhi Armed Police
New Delhi.

... RESPONDENTS

(BY ADVOCATE SHRI VIJAY PANDITA)

ORDER

JUSTICE K.M.AGARWAL:

By this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has
made a prayer for quashing the impugned order dated
25.6.1991, (Annexure A-8) and for directing the

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respondents to advance the date of his confirmation as Constable in Delhi Police and that of his promotion and also to give him all consequential benefits pursuant to the judgement dated 21.3.1984 given by the Delhi High Court in Civil Writ Petition No.47/1983 and to that of the order dated 29.6.1984 issued by the respondents.

2. Briefly stated, the applicant was appointed as Constable in Delhi Police by order dated 2.12.1963. His services were temporary in nature. In April 1967, the applicant participated in the general strike observed by Delhi Police and was, therefore, served with the notice of termination dated 13.4.1967. Subsequently pursuant to the Government decision, the applicant was re-appointed in service as a fresh entrant in Delhi Police with effect from 15.3.1971. Some of the Constables similarly re-appointed in service filed C.W.P.Nos.26 of 1969 & 106 of 1970 in the High Court of Delhi. They were allowed on 1.10.1975 by a Single Judge of the Delhi High Court. L.P.A. No. 24 of 1975 filed against one of the aforesaid judgements of the learned Single Judge was dismissed on 29.4.1977 by a Division Bench of that Court. As a consequence of the aforesaid judgements of the Delhi High Court, the petitioners in the said Writ Petitions were deemed to continue in service and were also directed to be paid their full pay and allowances for the intervening period between the date of termination and the date of re-appointment. As the benefit of these judgements was not given to the applicant, he also filed C.W.P.No.47/1983 which

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was allowed on 21.3.1984. Pursuant to this order of the High Court, the applicant was treated as continuing in service and was also paid all the arrears of his pay between the date of termination of his services and the date of his re-appointment. The applicant thereafter represented for further consequential benefits by advancing the date of his confirmation and promotion etc., which was rejected by the respondents by their impugned order dated 25.6.1991, (Annexure A-8). Being aggrieved, the applicant has filed the present O.A. for the aforesaid reliefs.

3. After hearing the learned counsel for the parties and perusing the record, we are of the view that this application has no substance. The applicant does not appear to have disputed that as per service rules, his initial appointment was on probation. On completion of the period of probation, a probationer does not automatically become confirmed against his post. A specific order in that regard is necessary. In paragraph 20 of his application, the applicant has specifically stated that Constables Mahipal Singh No.2687, Chander Bhan No.2653, Suraj Bhan No.2638 and Surinder No.2705 had been appointed as Constables in Delhi Police along with the applicant on one and the same day, i.e. 2.12.1963. Constable Mahipal Singh/^{was confirmed} with effect from 2.12.1966. Others were also alleged to have been similarly confirmed and also promoted as Head Constables and Assistant Sub Inspectors. In paragraph 21 of the application, he has alleged that he was confirmed as

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a Constable in 1974. It means that in the year 1966, when other Constables similarly appointed as the applicant were considered for confirmation, the applicant was also considered but not confirmed. The general strike of Delhi Police was in April 1967, i.e. subsequent to the date of confirmation of other Constables who were appointed along with the applicant. Accordingly if the applicant was aggrieved by his non-confirmation against the post of Constable in 1966, he ought to have agitated his grievance in time before the court of competent jurisdiction. That having not been done, the applicant cannot claim confirmation from the date other Constables mentioned in paragraph 20 of the application were confirmed. The applicant has not mentioned the name of any Constable junior to him who was considered for confirmation and was confirmed prior to the date of his confirmation/ ^{in similar circumstances.} We further find that in the year 1966, when the applicant and other Constables appointed on one and the same day were considered for confirmation, the applicant was not confirmed. The only reason for that could be that his performance as a Constable was not found satisfactory. During the period of strike, when the applicant was not in actual service, there could be no occasion for the respondents to watch his performance as a Constable and decide whether he was or was not fit for confirmation. After re-appointment, which was subsequently treated as reinstatement, the performance of his services must have been found to be satisfactory and accordingly he might have been confirmed in the year 1974. Under these

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circumstances, we find no case for advancing the date of his confirmation. Accordingly, for the same reasons, we find no case for re-fixation of his seniority or advancing the date of his promotion, if any, subsequent to the date of his confirmation as Constable.

4. In the result, this application fails and it is hereby dismissed. No costs.

K.M.

(K.M.AGARWAL)
CHAIRMAN

S.P.

(S.P.BISWAS)
MEMBER(A)

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