

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2239/92

New Delhi: this the 17 day of May, 1999.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN(A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J)

Shri Durga Prasad,

S/o Shri Khazan Singh,

R/o 2/7, Court Lane, Delhi-0054.

Presently posted as Asstt. Commissioner

of Police in Police Control Room,
Delhi.

..... Applicant.

(None appeared)

Versus

Union of India through
the Secretary to the
Govt. of India,
Ministry of Home Affairs,
North Block,
New Delhi.

2. Delhi Administration, Delhi
through
its Chief Secretary,
5, Sham Nath Marg,
Delhi -0054

..... Respondents.

(By Advocate: Shri NS.Mehta)

ORDER

HON'BLE MR.S.R.ADIGE VICE CHAIRMAN(A).

Applicant seeks appointment to Gr. II of DANI Police Service under Rule 5(1)(b) of DANI Police Service Rules and placement between Sls. No.56 & 57 of Notification dated 8.4.92 (Annexure-E) with seniority w.e.f. May, 1985. Alternatively he seeks opening of the sealed cover in respect of the recommendation in regard to him and appointment in regular capacity to Gr. II of DANI Police Service with seniority from May, 1985.

2. Pursuant to Home Ministry's letter dated 15.5.85

31

(Annexure-A) applicant was appointed on officiating basis on an excadre post of A.C.P. under Rule 25(1) DANI Police Service Rules. While so officiating, his case for regular promotion under Rule 5 of the aforesaid Rules was considered by a regularly constituted DPC on 3/4.9.91 and again on 17/28.1.92. Respondents state that the minutes of the DPC which was held under the Chairmanship of a Member UPSC was received vide U.P.S.'s letter dated 4.3.92, and after the competent authority had accepted the recommendations of the DPC further action for appointment of the officers recommended therein was being taken, but by that time, on 20.3.92 applicant had been issued a charge sheet for major penalty proceedings under Rule 14 CCS(CCA) Rules, 1971 and hence the recommendation of the DPC in his case were kept in a sealed cover in terms of para 7 of D.P. & T's OM dated 12.1.88 (Annexure-R III). The notification appointing officers recommended by the selection committee which met in UPSC on 3/4.9.91 and 17/28.1.92 was issued on 8.4.92.

3. Applicant has not cared to furnish a copy of the order appointing him to officiate as A.C.P (Gr.II of DANI, Police Service) on adhoc basis, but from the letter dated 15.5.85 (Annexure-A), it is clear that this officiating appointment was against an excadre post made in the exigencies of service under Rule 25(1) DANI Police Rules. In similar circumstances, the CAT PB in its order dated 10.5.94 in OA No.1619/92 R.S.Dahiya Vs. UOI & Ors. had clearly held that such an officiating appointment made against an

2

32

excadre post in the exigencies of service under Rule 25(1) could not be equated with a regular appointment made under Rule 5(1)(b) DANI Police Rules for the benefit of continuous officiation towards seniority. That order is squarely applicable to the facts and circumstances of the present case and hence the claim for granting applicant seniority as A.C.P. w.e.f. May, 1985 fails.

4. Applicant has contended that as at the time the D.P.C met, there were no charges pending against him, keeping of his case in sealed cover was mala fide, illegal and arbitrary. This point has also been discussed elaborately in Dahiya's case (Supra) and in the light of the Hon'ble Supreme Court's ruling in ODA Vs. H.C. Khurana J.T. 1993 (2) SC 695 the Tribunal has held that under the circumstances the adoption of the sealed cover procedure was fully in accordance with law.

5. During the course of the hearing on an earlier date on behalf of the applicant, support was sought from the Hon'ble Supreme Court's judgment in UOI & Ors. Vs. J.C. Bhatia & Ors. J.T. 1995 (1) SC 233, but that case is clearly distinguishable from the one before us, because there the controversy was regarding the fixation of inter se seniority between promotees and direct recruits, which is not the case here.

6. For the reasons contained in the Tribunal's order in Dahiya's case (Supra) which is on all fours with the present case, we find no good grounds to interfere

2

33

and the OA is dismissed. No costs.

Lakshmi Swaminathan

(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S. R. Adige

(S. R. ADIGE)
VICE CHAIRMAN (A).

/ug/