

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-2837/92

(1)

New Delhi this the 17th day of December, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)  
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Nirmal Singh,  
S/o Sh. Shinghara Singh,  
C/o Sh. Sant Lal Advocate,  
C-21(B) New Multan Nagar,  
Delhi-56. .... Applicant

(through Sh. Sant Lal, advocate)

versus

1. The Union of India through  
the Chief Secretary,  
Delhi Administration,  
Delhi-54.
2. The Commissioner of Police,  
Police Headquarters,  
MSQ Building,  
I.P. Estate,  
New Delhi-2.
3. The Deputy Commissioner of  
Police, Police Headquarters(I),  
I.P. Estate, New Delhi-2. .... Respondents

(through Sh. Anoop Bagai, advocate)

ORDER(ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

The case of the applicant in this O.A. is that even though he was brought on promotion List 'A' by an order dated 13.11.87 he was not sent for training alongwith his colleagues when others were sent by an order dated 16.11.87. Again when many of his juniors were sent on 23.8.88 for training, the applicant was not sent. On 22.7.88, the promotion List 'B' was issued and apparently since the applicant has not completed the training, his name was not included in the said List 'B' either and he expected his name to appear in the next

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List 'B' which happened to be issued on 24.4.85 but his name did not figure even in the said list. The learned counsel for the applicant submitted that in accordance with Rule 13 of the Delhi Police (Punishment and Confirmation) Rules, 1980, once the name of the applicant has been included in the promotion list, it is mandatory under clause (a) of the sub-rule, for the respondents to include his name in promotion List 'B' in the normal course but the respondents did not apply this sub-rule and the representation given in this regard was rejected by a non-speaking order.

2. It was also stated that the applicant was given promotion by an order dated 11.7.94 during the pendency of this O.A. and the applicant would, therefore, limit his reliefs to ante-date his promotion given in 1994 till 1989.

3. On notice, the respondents have filed their reply stating that the case of the applicant was considered to include the name of the applicant in promotion List 'B' by a D.P.C. held in February 1989 after he completed the training but the D.P.C. did not find him fit and his name was not included in the promotion List 'B'. It was further stated that the applicant had been chargesheeted for a major penalty in the year 1986 and the said major penalty was still running at the time when the promotion List 'A' was issued on the basis of which the first promotion List 'B' was issued. It was also stated by the respondents in their counter-affidavit that as per the extant

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standing orders the name of the applicant was included in a secret list of doubtful integrity since the major punishment awarded to the applicant happened to be relating to a charge of corruption. Since we are not dealing with legality of the said order passed in the disciplinary proceedings nor are we called upon to look into the legality of the order by which his name was kept in the list of doubtful integrity, we find that the name of the applicant could have only been declared after his name was removed from the list of doubtful integrity was lifted. The respondents have also shown at page-4 of the counter-affidavit that the case of the applicant was further reviewed with a view to remove the name of the applicant from the list of doubtful integrity and it was decided that the same would be extended further and his name would be finally reviewed only after 8.5.93 and it was stated that a review accordingly was held and promotion was granted to the applicant by an order dated 11.7.94.

4. The contention of the learned counsel for the applicant was that the inclusion of the name of the applicant in the secret list of doubtful integrity was not communicated to him and as such he could not challenge the said order and inclusion of his name in secret list cannot be a ground or a reason for denying promotion to him, otherwise found eligible. For this purpose he cited before us a decision of this Tribunal dated 16.3.90 in the matter of Jai Kishan Vs. U.O.I. & Ors. (OA-1542/89) wherein this Tribunal did record a

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finding that in the circumstances of that case the secret list in which the applicant in the other case was included was wrong and the said decision was given relying upon two decisions of the Hon'ble Supreme Court, namely, Gurdial Singh Fiji Vs. State of Punjab (1977 SCC (L&S) 197 at 203 and State of Haryana Vs. P.C. Wadhwa & Others (1987(2) SLJ 162 at 169). We have perused the said cases and we find that both the relied upon cases of the Hon'ble Supreme Court are on adverse remarks entered in a confidential report and the ratio in those said cases are that wherever an adverse remark is entered in certain circumstances, that shall not affect the promotion of the incumbent. More over, we find that in the said O.A., the applicant had challenged the inclusion of his name in the secret list. On perusal we find that in the present case there is no such challenge to the inclusion of the name of the applicant in the secret list of doubtful integrity and as such we are unable to record any finding as to the legality of such action of the respondents. In the circumstances, we find no merit in this O.A. and the same is dismissed but without any order as to costs.

  
(S.P. Biswas)

Member(A)

  
(Dr. Jose P. Verghese)

Vice-Chairman(J)

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