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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.33 of 1992

New Delhi, dated the 28 February, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)  
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Yash Pal Singh,  
S/o Shri Umed Singh.  
R/o C-207,  
West Kraval Nagar,  
Delhi-110094. .... APPLICANT

By Advocate: Shri V.K. Rao

VERSUS

1. Union of India through  
the Secretary,  
Ministry of Home Affairs,  
North Block,  
New Delhi.
2. Commissioner of Police,  
Police Headquarters,  
I.P. Estate,  
New Delhi-110002.
3. The Lt. Governor,  
through the Chief Secretary,  
Delhi Administration,  
5, Shamnath Marg,  
Delhi-110054. ... RESPONDENTS

By Advocate: Shri Vijay Pandita

JUDGMENT

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

Applicant seeks quashing of respondents O.M.  
dated 21.11.90 (Ann. B-2) rejecting his  
representation to bring his name to promotion list A  
and for a direction to respondents to hold a review  
DPC to consider his case for being brought on to  
Promotion List A (from constable to Head Constable)  
w.e.f. the date his immediate juniors are brought  
into that list.

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2. Applicant was appointed as a constable on 3.2.82, but his services were terminated on 11.12.82. That termination order was set aside by the Delhi High Court on 6.5.1985 in CWP No.304/84 filed by the applicant. LPA against that order was dismissed by the High Court on 15.5.86, and SLP filed in the Hon'ble Supreme Court was also dismissed as a result of which applicant was reinstated on 18.5.87.

3. The procedure <sup>to</sup> bring constables on the Promotion List A is governed by Rule 12 Delhi Police (Promotion & Confirmation) Rules and Standing Order No.91 a copy of which is on record.

4. Admittedly the applicant was considered by the DPC in 1987 and in 1989, and during hearing we notice that he obtained marks as follows:

Sl. No.	Name of Test	Max. Marks	Marks obtd. by applicant	
			1987	1989
1.	Written Test	80	49	61
2.	PT and Parade	40	20	17
3.	Length of Service (two marks for every year of service)	30	10	16
4.	ACRs	15	0.5	3
5.	Non-punishment	15	15	15
6.	Rewards	15	..	4
7.	Sports	5	..	..
		200	94.5	116.0
Minimum cut off marks			130.0	133.5
Marks by which applicant falls short			35.5	17.5

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5. We note that applicant received 35.5 marks less than the minimum cut off marks in 1987 and 17.5 less than the min. cut off marks in 1989.

6. Shri Rao has argued that there is no rational basis for awarding a maximum of 30 marks for length of service based on 2 marks for each year, and if marks for length of service were proportionately reduced or alternatively applicant had been given the maximum marks for the number of years of service put in by him he would have been cleared by the DPC in 1987 or 1989. This argument has not merit. A max. of 30 marks is awarded as per S.O.91 on the basis of two marks for each year of completed qualifying service, and this yardstick is common to all candidates. No candidate can legitimately claim that the rules/ instructions be modified to suit him<sup>^</sup>. Further more from the table above we note that applicant has been given credit for the number of years of service put in by him, which includes that period during which his services remained terminated.

7. Shri Rao has also asserted that there was no rationale for giving him only .5 marks for ACRs in 1987 and 3 marks in 1989. We note that applicant was given .5 marks for ACRs in 1987 because of 6 months of service put in by him after his reinstatement and in 1989 he earned 3 marks; based on 1 'Very Good' for 1988-89 for which he earned two marks and 1 'Satisfactory' for 1987-88 for which he earned

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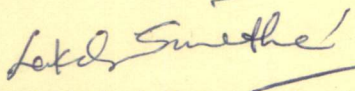


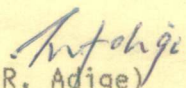
(26)

1 mark. Shri Rao's contention that because he was reinstated in service with full backwages, etc. and the order of termination was held to be non est the applicant must be deemed to be fit for promotion, cannot be extended to mean that the applicant has to be given 15 out of 15 marks in ACRs for the period he remained out of service. Furthermore in the facts and circumstances of this particular case we note that even if applicant was granted full marks in ACRs he would still fall short of the min. cut off marks for being brought to Promotion List A.

8. We were informed that pursuant to the interview orders applicant had meanwhile been sent for the Training Course, in which he had performed well, and having completed the training course successfully he would not be required to be sent for training again if and when he was brought on to Promotion List 'A' when the DPC meets next. We note this.

9. In the result we find no good grounds to judicially intervene in this matter. The O.A. is dismissed. No costs.

  
(Mrs. Lakshmi Swaminathan)  
Member (J)

  
(S.R. Adige)  
Member (A)

/GK/