

In the Central Administrative Tribunal
Principal Bench, New Delhi

DA-899/92

Date: 2.4.1993.

Shri Narain Singh

.... Applicant

Versus

Union of India

.... Respondents

For the Applicant

.... Shri Shankar Raju, Advocate

For the Respondents

.... Shri O.N. Trisal, Advocate

CORAM: Hon'ble Mr. Justice S.K. Dhaen, Vice-Chairman
Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether reporters of local papers may be allowed to see the judgement?

(Oral judgement by Hon'ble Mr. Justice S.K. Dhaen,
Vice-Chairman)

On 12.10.1982, an order promoting the applicant as Head Constable with effect from 11.10.1982 was passed. On 22.5.1986, an order confirming him was passed. The said order of confirmation is being impugned in the present application.

2. Delhi Police (Promotion and Confirmation) Rules, 1980 (hereinafter referred to as 'the rules') govern the case of the applicant. Rule 5(ii) in substance provides that a promotion shall be on officiating basis and the employee shall be considered for confirmation only on availability of the permanent post and on successful

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completion of a minimum period of two years. However, the appointing authority is given the option to either extend the period of probation or revert the promoted employee. Further more, the outer limit of the period of probation is fixed ~~xxxx~~ as three years. The respondents have come out with the case that a vacancy occurred on 22.11.1986. Assuming this to be correct, in the normal course, the period of probation could not extend beyond a period of three years from 12.10.1982. Therefore, the applicant should have been confirmed w.e.f. 11.10.1985. Since no vacancy was available, and such a vacancy came into existence for the first time on 22.11.1985, the applicant shall be deemed to have been confirmed on the said date, viz., 22.11.1985. Thus, the order confirming the applicant w.e.f. 22.5.1986, is not sustainable.

3. The learned counsel for the respondents has sought to get over the difficulty by raising the plea of limitation. It is averred that the order of confirmation was published some time in 1987. No mode of publication has been given in the reply. The applicant's case is that ^{the order of} he acquired ~~the~~ knowledge of confirmation later, when the candidates were selected for training in the intermediate school and his name was not found in the list of these

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selected. He was then told that since he had been confirmed in 1986, he was junior to those selected.

That is how the applicant acquired knowledge of the order for the first time. Having seen the material on record, we are satisfied that there is a ring of truth in the case of the applicant.

4. Under the interim order of this Tribunal dated 1.4.1992, the respondents were directed to provisionally depute the applicant for training to the intermediate training course along with the current batch. However, it was clear that the order was subject to the final decision in this application.

5. We have already found that the applicant should be deemed to have been confirmed w.e.f. 22.11.1985. Had the respondents have taken the correct legal stand, the applicant would have been selected for training in his own turn and no occasion would have arisen to him to approach this Tribunal. We, therefore, direct that the respondents shall treat the applicant as being deputed for training in the intermediate school course in accordance with law. If he has completed his training, they shall now declare his results.

6. We are informed that the results have been declared. Therefore, the respondents shall now refix the seniority of

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the applicant, keeping in view the fact that he should be deemed to have been confirmed w.e.f. 22.11.1985.

7. With these directions, this application is disposed of finally, but without any orders of costs.

Subhash
(I.K. Rasgotra)
Administrative Member

S.K. Dhaon
(S.K. Dhaon)
Vice-Chairman (Jud.)