

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 1935/93

New Delhi this the 17th Day of November, 1993.

HON'BLE SH. J.P. SHARMA, MEMBER(J)

HON'BLE SH. B.N. DHOUNDIYAL, MEMBER(A)

Sh. Inder Singh Bisht
S/o Sh. Rattan Singh Bisht,
R/o WB-106, Shakarpur,
Delhi-110 092.

.... Petitioner

(By Advocate Sh. V.S.R. Krishna, counsel)

versus

1. The Chief Secretary,
Delhi Administration,
5, Shyam Nath Marg,
Delhi.
2. The Transport Commissioner,
Govt. of National Capital Territory
of Delhi,
5/9, Under Hill Road,
Delhi-110 054.
3. Sh. Mahabir Singh,
Asstt. Sub-Inspector,
Transport Department,
Govt. of National Capital
Territory of Delhi,
5/9, Under Hill Road,
Delhi-110 054.
4. Sh. Om Prakash,
Asstt. Sub-Inspector,
Transport Department,
Govt. of National Capital
Territory of Delhi,
5/9, Under Hill Road,
Delhi-110 054.

(By Advocate Sh. Vinay Sabharwal and Mrs. Meera Chhiber)

O R D E R
(delivered by Hon'ble Sh. B.N. Dhoundiyal, Member(A)).

This O.A. has been filed by Sh. Inder Singh Bisht challenging the impugned seniority list dated 5.5.1993 of Assistant Sub-Inspectors in the Transport Department of Delhi Administration in which his

SW

seniority has been depressed and the order dated 27.5.1993 promoting two of his juniors without considering his claim.

2. The main averments made in the application are these. The applicant joined the Deptt. of Transport, Delhi Administration on 10.1.1968 and was appointed as Constable on 30.1.1984. The order dated 30.1.1984 shows applicant's name at Serial No. 8 and that of Respondent No.4 Sh. Om Prakash name at Serial No.11. Later he was promoted as Head Constable and in the final seniority list of the Head Constables (Annexure A-3) his name is at Serial No.3 whereas the name of Respondent No.4 is at Serial No.6. The applicant alongwith Respondent No.4 were promoted to the post of Asstt. Sub-Inspector w.e.f. 1.6.1990. Again in the order of promotion dated 26.3.1993, the applicant was shown at Serial No.2 and Respondent No.4 at Serial No.5. One Sh. Mahabir Singh, Respondent No.3 joined the department on deputation as Constable on 16.5.1970 and was later absorbed. The applicant having joined on 10.1.1968 was clearly senior to Respondent No.3. However, in the impugned seniority list dated 5.5.1993, Respondents No.3 & 4 who are his juniors have been shown above him. He submitted a representation which was ignored and by the impugned order dated 27.5.1993 Respondents No.3 & 4 were promoted to the post of Sub-Inspector totally overlooking the legitimate claim of the applicant. He has sought directions that the final seniority list of Asstt. Sub-Inspectors be issued only after taking into account the objections raised by him, that his seniority vis-a-vis Respondents No.3 & 4 be restored, that the impugned order of

SW

promotion of his juniors dated 27.5.1993 be quashed and he be promoted as Sub-Inspector from the date his immediate junior were promoted. He also requested for an interim relief for directing the respondents to consider him for promotion to the post of Sub-Inspector on an ad hoc basis.

3. On 10.11.1993 when the case came up for hearing on interim relief, the learned counsel for the applicant stated that he will not file any rejoinder and that the case could be disposed of finally at the consideration of the interim relief involves the consideration of merits of the case. As agreed to by the parties, this case is, therefore, being heard and disposed of at the admission stage itself.

4. In the counter filed by the respondents, the main averments made are these. As per Recruitment Rules, a minimum of 5 years service as Asstt. Sub-Inspector is necessary before an employee can be promoted to the post of Sub-Inspector. Neither the applicant nor Respondents No.3 & 4 have completed 5 years of service as Asstt. Sub-Inspector and cannot claim promotion as a matter of right. Sh. Om Prakash Respondent No.4 joined the department as Constable on 29.8.1966 whereas the applicant joined on 10.1.1968. Sh. Mahabir Singh Respondent No.3 was employed in the same grade as Constable in his parent department from where he had come on deputation. His seniority, therefore, was taken from the date of his entry in the government service as a Constable. The final seniority of Constables dated 30.6.1992 was modified on the basis of a representation received from Sh. Om Prakash vide order dated 5.5.1993.

SV

5. In the counter filed by Respondent No.4 Sh. Om Prakash it has been stated that he was appointed as Constable on ad hoc basis on 29.8.1966 and continued as such till 20.5.1971 when he was regularised. However, no seniority list was prepared in the order of confirmation he was wrongly shown junior to the applicant as his continuous ad hoc appointment on 29.8.1966 had been followed by regularisation, his claim for counting the ad hoc service was rightly accepted by the authorities and the date of his entry into service was rightly shown as 29.8.1966. The corrigendum dated 5.5.1993 restored his position at Serial No.1. Both he and the applicant were promoted as Asstt. Sub-Inspector vide order dated 26.3.1993 and again Respondent No.4 was wrongly shown as junior to the applicant. The corrigendum dated 5.5.1993 was for carrying out necessary corrections.

6. We have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the respondents fairly stated that the impugned seniority list is only tentative and objections raised by the applicant and others are still under consideration. There is also substance in the contention that ad hoc promotions cannot be claimed as a matter of right and that the applicant will be eligible for promotion to the post of Sub-Inspector only after completion of 5 years of service as Asstt. Sub-Inspect. This O.A. is, therefore, disposed of with the following directions:-

- (a) Before finalising the seniority list the respondents shall consider all the points raised in the representation of the applicant and pass a speaking order;

En

- (b) The applicant will also be considered for ad hoc promotion to the post of Sub-Inspector as soon as a vacancy arises in this cadre.

7. There will be no orders as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 17/8/93.
MEMBER(A)

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

/vv/