

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 2509/93

22

New Delhi this the 19th day of November, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri K. Muthukumar, Member (A)

Constable Jwala Prasad
No. 702/NW posted at
Police Station Adarsh Nagar,
R/O Barrack No. II, P.S. Adarsh Nagar,
Delhi-33

... Applicant

(By Advocate Shri Shankar Raju)

Vs.

1. National Capital Territory of Delhi
through Commissioner of Police,
Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi.
2. Deputy Commissioner of Police
(Headquarter-1), Police Headquarters,
M.S.O. Building, I.P. Estate, New Delhi.

... Respondents

(By Advocate Shri Vijay Pandita)

O R D E R (ORAL)

(Hon'ble Shri K. Muthukumar, Member (A))

The impugned order in this application arose out of the order passed by the Tribunal in OA 180/87 on 4.12.1992. In the aforesaid OA, the Tribunal passed the following order:-

8. " In the case of Sh. Mukhtiar Singh Vs. Lt. Governor, Delhi and Others (OA 6/89) decided on 30.4.90, in which, one of us (Sh. P. K. Kartha) was a party, it was held that, as the applicant had already completed the training course and passed on merit, his suitability for promotion may be considered by a DPC again.

9. We reiterate the same view in this case also. The application is therefore disposed of, with the direction that the review DPC may be constituted to assess his suitability. In case the DPC finds him suitable, he should be promoted as Head Constable from the date of promotion of his immediate juniors. The above orders shall be complied with, expeditiously and preferably

within a period of three months, from the date of receipt of this order."

23

2. The applicant's contention in this case is that the respondents have not implemented the order and have subjected the applicant to further list 'A' test for assessing his suitability under Rule 12 of the Delhi Police (Promotion and Confirmation) Rules, 1980. The applicant further submits that he should have been considered for promotion as ordered by the Tribunal under Rule 13 of the Delhi Police (Supra). In other words, he should have not been subjected to the test indicated under Rule 12 but he should have been considered straightway for inclusion of his name in list 'B' i.e. meant for panel for promotion to the level of Head Constable under Rule 13. In the impugned order, the respondents have stated that in pursuance of the directions of the Tribunal, a review DPC was constituted to assess the suitability of the applicant and he could not make the grade for being included in the list 'A'. Learned counsel for the applicant extensively argued that the promotion list 'A' was the subject matter of his earlier OA 180/87. The present OA has been filed on 1.12.1993. Learned counsel for the applicant urges that by the impugned order he has got cause of action as the respondents have not implemented the orders of the Tribunal and his representation was also rejected by the respondents by order dated 17.10.1993. Learned counsel for the respondents on the other hand points out that the applicant was subjected to suitability assessment as per the directions of the Tribunal and assessing his suitability, the respondents have necessarily followed the statutory rules, namely, Rule 12 of the Delhi Police (Supra) and accordingly he was assessed by the review DPC and he was subjected to necessary test in this behalf and after examination of his records suitably, DPC found him unfit for inclusion^{of} his name in the promotion list 'B' for promotion as Head Constable. Learned counsel also points out that the question of his directly being considered for inclusion of his name in list 'B' does not arise when the respondents have not

found him fit and, therefore, he says that no case has been made out by the applicant for being considered under Rule 13 of the Delhi Police (Supra) on the basis of the assessment by the review DPC.

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3. We have heard both the learned counsel and perused the records.

4. If the applicant had any grievance in regard to the incorrect implementation of the order of the Tribunal according to him, then the right had accrued for him to file a CP, which he had not done. Secondly, he argued that because he had successfully undergone lower school training course, he should be deemed to have been placed in list 'B'. We are unable to agree with this contention. Unless the applicant is found fit under the rules, he cannot possibly claim for inclusion of his name in the list 'B' even though he might have undergone lower training school course but this is subject to his suitability, which is to be assessed by the DPC that may be constituted as directed by the Tribunal in its order dated 4.12.1992. In the circumstances, we find no good ground to interfere in the matter.

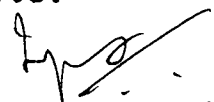
5. Learned counsel for the applicant also submits that he has filed MA 719/94. Vide order dated 18.3.94 it was directed that this MA be taken up along with the OA at the time of final hearing. In this MA, he has prayed that the respondents have proceeded to recover cost of lower training course at this stage although he has successfully completed the lower training course and, therefore, he has prayed that the recoveries should be stayed.

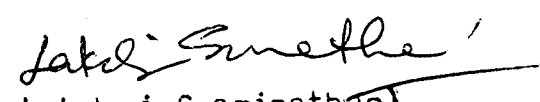
6. Learned counsel for the respondents, however, states that they have not taken any action to recover the same so far. Besides, the applicant was permitted by an interim order dated 27.5.97 to join the lower school training course. However, as the applicant has been declared successful in the lower school

training course and for any subsequent assessment of the applicant for any promotion at a later date, the respondents would no doubt consider taking into account his successful completion of the lower school training course.

25

7. Application fails and it is dismissed. No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)