

14/12/98

DB order

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Order pronounced to -day by Hamberly SR AG
UCA,

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Hamberly SR AG
UCA

Hamberly J-S. Dhalival
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Central Administrative Tribunal
Principal Bench
New Delhi

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O.A. No. 567/93
M.A. No. 1771/98

Decided on 14.12.98

Mrs. Kiran Devi, Applicant
W/o late Shri Ranbir Singh

(By Advocate: Shri Shyam Babu)

Versus

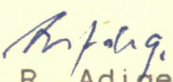
Delhi Admn. & Others. Respondents

(By Advocate: Shri Vijay Pandita)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. J.S. DHALIWAL, MEMBER (J)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not ? No.


(S.R. Adige)
Vice Chairman (A)

Central Administrative Tribunal
Principal Bench

O.A. No. 567 of 1993
M.A. No. 1771 of 1998

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New Delhi, dated this the 14th December, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. JASBIR SINGH DHALIWAL, MEMBER (J)

1. Mrs. Kiran Devi,
W/o late Shri Ranbir Singh.
 2. Shri Jasbir Singh,
S/o late Shri Ranbir Singh
R/o 756/46, Trinagar,
Delhi-110035. Applicants
- (By Advocate: Shri Shyam Babu)

Versus

1. Delhi Administration,
Delhi through its Chief Secretary,
5, Sham Nath Marg, Delhi.
 2. Commissioner of Police, Delhi,
Police Headquarters, I.P. Estate,
New Delhi.
 3. Dy. Commissioner of Police,
(Provisioning & Lines), Delhi,
Old Police Lines, Delhi.
 4. Dy. Commissioner of Police,
Headquarters (I), Police Headquarters,
I.P. Estate, New Delhi. ... Respondents
- (By Advocate: Shri Vijay Pandita)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

This case was originally filed by applicant No.1's late husband Shri Ranbir Singh impugning Respondents' Memo. dated 5.2.93 (Ann. K) and seeking promotion as ASI (Ministerial) w.e.f. 17.2.86 with consequential promotions.

2. During the pendency of the O.A. applicant has unfortunately expired on 22.7.98 and the late applicant's widow as well as his son have filed M.A. No. 1771/98 seeking impleadment and that M.A. was allowed vide order dated 26.11.98.

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3. We have heard applicants' counsel Shri Shyam Babu and respondents' counsel Shri Vijay Pandita.

4. By the CAT, PB's order dated 15.10.92 in O.A. No. 495/92 filed earlier by the late applicant Shri Ranbir Singh seeking a direction to respondents to promote him to the post of ASI (Ministerial) w.e.f. 17.2.86 with consequential benefits, respondents had been directed as under:

".....to convene another DPC to consider the case of the applicant for promotion to the post of ASI (Ministerial) with effect from 17.2.86 and subsequent dates upto 23.6.89 as mentioned in Para 3 above treating the performance of the applicant during the period of absence from service as fit on the point of performance. However, other requirements of the Delhi Police (Promotion & Confirmation) Rules, 1980 shall also be taken into account. The review DPC should be convened expeditiously and preferably within a period three months from the date of receipt of a copy of this order. If- the applicant is found fit by the DPC he shall be given promotion to the post of ASI (Ministerial) from the due date with all consequential benefits. As regards the period after 23.6.89, it may be stated that the applicant was directed to be reinstated in service by order passed on 9.8.89, and after reinstatement periodical reports on his performance must have been recorded. From the period from that date the conduct and performance of the applicant shall be the basis for consideration of his case for promotion to the post of ASI".

5. In the impugned order respondents now state that Shri Ranbir Singh's name was considered for admission to Promotion List 'D' (Ministerial) by the Review DPC held on 12.1.93 and his ACRs for the period from 23.6.89 till date were taken into consideration as per Para 6 of the Tribunal's judgment. It is further stated that the DPC

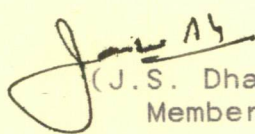
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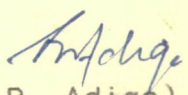
treated Shri Ranbir Singh's performance as 'Fit' during the period of absence on account of termination of service from 10.2.78 to 8.8.89, as per the Tribunal's directions, and further Shri Ranbir Singh's record for the period 23.6.89 till date was assessed on the basis of periodical reports and performance recorded in his Service Book, but the DPC did not find him 'fit' for admission to Promotion List 'D' as he was awarded a major punishment of forfeiture of one year approved service (temporarily) on 30.8.91 for default dated 29.9.90 which reflected moral turpitude on his part.

6 Shri Shyam Babu has correctly pointed out that when the Tribunal had specifically directed, vide order extracted above, to consider the Shri Ranbir Singh's case for promotion as ASI (Ministerial) w.e.f. 17.2.86 upto 23.6.89, the DPC should not have considered his record lying outside that period and should have been confined themselves only to his performance during the aforesaid period 17.2.86 to 23.6.89. Clearly respondents, by considering his ACRs and other records for the period beyond 23.6.89 have not correctly implemented the Tribunal's judgment. In this connection Shri Shyam Babu has also emphasised that when the DPC met in January, 1993 the punishment of one year temporary forfeiture of service had also expired, and could not have been held against applicant.

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7. In the result the O.A. succeeds and is allowed to the extent that the impugned order dated 5.2.93 is quashed and set aside. The case is remanded back to respondents for strict implementation of the Tribunal's direction dated 15.10.92 extracted above, by means of a reasoned order within three months from the date of receipt of a copy of this order. In the event that respondents find ^{late} Shri Ranbir Singh fit for promotion as ASI (Ministerial) between the period 17.2.86 to 23.6.89, his legal heirs will be entitled to such consequential benefits as flow therefrom. No costs.


 (J.S. Dhaliwal)
 Member (J)


 (S.R. Adige)
 Vice Chairman (A)

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