

Central Administrative Tribunal
Principal Bench

O.A.No.741/93

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 22 day of September, 1998

1. Sub-Inspector (Woman) Pratima Sharma
No.D-1507, Delhi Police.
2. Sub-Inspector (Woman) Alka Bhatia
No.D-1509, Delhi Police.
3. Sub-Inspector (Woman) Kamlesh Kumari (SC)
No.D- Delhi Police. ... Applicants

(By Mrs. Avnish Ahlawat, Advocate)

Vs.

1. Delhi Administration through
Secretary(Home)
5, Shamnath Marg
Delhi.
2. Commissioner of Police
Delhi Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi - 110 002.
3. Deputy Commissioner of Police (HQ-1)
Delhi Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi - 110 002.
4. Inspector Bina Rani, No.D-102
Delhi Police.
5. Inspector (Woman) Harkala Thapa, No.D-719
Delhi Police.
6. Inspector(Woman) Krishna Dweivedi, No.D-720
Delhi Police.
7. Inspector (Woman) Savitri Sharma, D-722
Delhi Police.
8. Inspector (Woman) Sudesh Sharma, D-734
Delhi Police.
9. Sub-Inspector (Woman) Uma Rani, D-739
Delhi Police.
10. Sub-Inspector(Woman) Usha Bai, D-735
Delhi Police.
11. Sub-Inspector (Woman) Vijay Sachdeva, D-736
Delhi Police.

12. Sub-Inspector (Woman) Jagtar Kaur, D-738
Delhi Police.

13. Sub-Inspector (Woman) Vina Sharma, D-71
Delhi Police.

14. Sub-Inspector (Woman) Usha Sharma, D-718
Delhi Police.

15. Sub-Inspector (Woman) Kala Bisht, D-256
Delhi Police.

Respondents No.4 to 15 to be served through
Deputy Commissioner of Police(HQ-1)
Delhi Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi - 110 002.

... Respondents

(By Shri Ajit Singh, Departmental Representative)

O R D E R

Hon'ble Mr. Justice K.M.Agarwal, Chairman

The applicants herein were directly recruited as Sub-Inspectors (Women) in Delhi Police on 23.4.1976. Their appointment was against the 50% direct recruitment quota, the other 50% to be filled by promotion from the rank of Assistant Sub Inspector. Respondents No.4 to 15 were recruited into Delhi Police as Assistant Sub Inspector on various dates and were given ad hoc promotion as Sub Inspector (Women) w.e.f. 9.12.1976. At the relevant time, the Punjab Police Rules, as modified, were applicable to Delhi Police but after the promulgation of the Delhi Police Act, 1978, Delhi Police (Promotion and Confirmation) Rules were notified in 1980. It appears that in the Punjab Police Rules there was no specific provision regarding the manner in which the promotion of women Assistant Sub Inspectors was to be regulated, though Rule 12.10 thereof provided that List 'E' should be prepared from amongst confirmed Assistant Sub Inspectors to be selected by a duly constituted Departmental Promotion Committee for promotion to the rank of Sub Inspector. However, Rule 20 of Delhi Police (Promotion and Confirmation) Rules 1980 provided that the Rules laid down for admission of names to the promotion list and confirmation as for male police shall also

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apply mutatis mutandis to the woman police but test and interviews shall be held by Departmental Promotion Committee separately. Further, Rule 16 provided that confirmed Assistant Sub Inspectors with a minimum of six years service in that rank shall be eligible for List E-I on the basis of the recommendations of the Departmental Promotion Committee and then be sent for training for Upper School Course and on successful completion of that course, their names shall be brought on promotion list E-II for promotion to the rank of Sub Inspector. As the Respondents No.4 to 15 had not completed their Upper School Course training the Delhi Police sought an exemption in favour of the private respondents from the Administrator and on relaxation being obtained, the private respondents were confirmed as Sub Inspector vide order dated 1.5.1987 with retrospective effect on dates earlier to the date of confirmation of the petitioners, i.e., direct recruits, whose confirmation was also notified by the same common order. Taking the private respondents to be senior to the petitioners on that basis, the official respondents issued the impugned order dated 2.6.1987 promoting respondents No.4 to 8 as Inspector (Women).

2. The impugned order is assailed on various grounds. It is contended that the private respondents not having passed the requisite upper class training course, they could not be confirmed as Sub Inspectors till 1987 when the requisite exemption from this training was obtained from the Administrator. Secondly, it is contended that the applicants were eligible to be confirmed after completing three years of service and had the order of confirmation been issued at the due time they would have become eligible for promotion as Inspectors prior to the private respondents; it is alleged that the confirmation of the applicants was delayed till 1987

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only in order to favour the private respondents. Thirdly, it is contended that the private respondents could be considered for promotion as Sub Inspectors only on completion of six years qualifying service as Assistant Sub Inspectors but that they had been promoted and confirmed without putting in the requisite service. It is also contended that the respondents never issued any seniority list which would show the inter-se position between the applicants and the private respondents and hence the non-inclusion of the applicants in the list of promotees in the impugned order is illegal and unjust.

3. The OA was admitted for hearing vide Tribunal's order dated 5.1.1994 observing that the question of limitation shall be examined at the time of final hearing. It is precisely this objection which is the main plank of the reply of the respondents whose main contention is that the applicants are challenging an order of 1987 in March, 1993. We also consider that unless the applicants are able to overcome this objection, the merits of their case cannot be considered.

4. The applicants have also filed an application for condonation of delay which is resisted by the respondents. The applicants state that they had no knowledge that the private respondents had been confirmed with retrospective effect as the official respondents had taken care to convey to them only the extracts relating to their own, i.e., applicants' dates of confirmation omitting the entries about the private respondents. They further contend that it was only after coming to know that some of the respondents had been promoted as Inspector by the impugned order that they had started making enquiries and it was then that they could file representation in 1991. Thereafter in meetings with the Additional Commissioner of Police they were told that the Lt.

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Governor (Administrator) had granted exemption to the private respondents who thereupon had been confirmed with retrospective effect. During the course of the arguments, it was also emphasised by the learned counsel for the applicant, Mrs. Ahlawat that the respondents never published the seniority list of Sub Inspectors and therefore the applicants could not have come before this Tribunal until they had ascertained the facts and that was possible only after their discussions with the Additional Commissioner of Police and other officers.

5. We are however unable to accept this argument. The respondents have stated that the order dated 1.5.1987 which included confirmation orders of the applicants as well as the private respondents was published in the official gazette. That being the position, the applicants cannot take the plea of ignorance of the said order in which their own confirmation as well as that of the private respondents was available. This is more so since on the statement of the applicants themselves one of the applicants, i.e., Applicant No.2 was already working as Sub Inspector on ad hoc basis before she was selected as a direct recruit Sub-Inspector on regular basis. It is difficult to believe ^{that} in the small number of women Sub Inspectors in Delhi Police the applicants were not aware for four years that the private respondents had already been confirmed as Sub Inspectors. Therefore the explanation given by the applicants is totally unsatisfactory and unacceptable. The applicants also state that they were assured that their representations filed by them in 1991 and 1992 were under active consideration of the respondents. It is well settled that repeated representations not provided by law, do not extend limitation. The Supreme Court has also observed in S.S.Rathore Vs. State of Madhya Pradesh, AIR 1990

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SC 10 that "Submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation." This view was reiterated in State of Haryana & Others Vs. Miss Ajay Walia, JT 1997(6) SC 592 in which the Supreme Court observed that "Representation repeatedly given to various authorities do not furnish her fresh course of action to file writ petition. The High Court is wholly unjustified to have entertained and allowed the writ petition."

6. The contention of the learned counsel for the applicant that the absence of a duly notified seniority list by the respondents gives a continuing cause of action to the applicants is also not well founded. Rule 18 of the Delhi Police (Promotion and Confirmation) Rules, 1980, stipulates that "Save as otherwise provided in these rules, confirmation in all ranks shall be strictly on the basis of seniority when permanent posts become available." Thus a person who is confirmed in Delhi Police earlier is deemed senior to one who is confirmed later. Once the private respondents had been declared to be confirmed earlier than the applicants, under Rule 18 (supra) the former became senior to the applicants. Therefore the absence of a common seniority list would make no difference to the position that by the order of confirmation dated 1.5.1987 the inter-se seniority had already been determined between the applicants and the private respondents. Therefore it cannot be argued that the inter-se seniority is still being determined and therefore the applicants case does not suffer from limitation. As held by the Supreme Court in B.S.Bajwa & Anr. Vs. State of Punjab & Ors., JT 1998(1) SC 57 "it is not proper in service matters that the question of seniority be reopened after the lapse of reasonable time." What we have heard is essentially a question of seniority

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between the applicants on one hand and the private respondents on the other. This issue was settled in 1987 at the time the confirmation orders of both the parties were issued. What is more on the basis of that seniority some of the respondents obtained their promotions to the next rank of Inspector in 1987 itself. Even if these promotions were not on regular basis, nevertheless, the fact remains that they were continuing when the applicants came before the Tribunal in 1993. We are therefore not inclined to interfere with a settled seniority position. In our view it is too late in the day for the applicants to agitate the question of confirmation of the private respondents and thereby their inter-se seniority.

7. In view of the fact that the OA is now barred by limitation, it is not necessary to go into ^{on} respect of the merits of the case. The OA is dismissed. There shall be no order as to costs.

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(K.M. Agarwal)
Chairman

Reedha

(R.K. Ahooja)
Member (A)

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