



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 1172 of 2019

This the 1st day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sunil Jain,
Inspector (Executive), Group-'B',
No. D-3586, PIS No. 16960075,
Aged about 47 years,
S/o Sh. Labh Chand Jain,
R/o B-302, Welcome Apartment,
Sec-9, Rohini, Delhi.

...Applicant

(By Advocate: Mr. M.K. Bhardwaj)

VERSUS

1. Commissioner of Police
Police Headquarters,
IP Estate, New Delhi.
2. The Addl. Commissioner of Police (Vig.),
Police Headquarters,
IP Estate, New Delhi.
3. The Dy. Commissioner of Police,
Establishment,
Police Headquarters,
IP Estate, New Delhi. ...Respondents

(By Advocate: Mr. Amit Yadav)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (J):

Heard the learned counsels for the parties.



2. In the present OA filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:-

- “(i) To quash and set aside the impugned order dated 28.03.2019 and direct the respondents to grant Financial Upgradation under MACP Scheme dated 19.05.2009 to applicant with all consequential benefits including arrears of pay.
- (ii) To declare the action of respondents in withholding Vigilance Clearance and thereby denying Financial Upgradation under MACP Scheme dated 19.05.2009 as well as probation clearance as illegal and arbitrary and issue appropriate directions to the respondents to grant 32nd Financial Upgradation to applicant under MACP Scheme dated 19.05.2009 as well as clearance of probation period with all consequential benefits including arrears of pay.
- (iii) To allow the OA with cost.
- (iv) To pass such other and further orders which their lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

3. The impugned order dated 28.03.2019 (Annexure-A-1) reads as under:-

“Subject:- Regarding representation for granting benefits of MACP Scheme and also confirmation at the rank of Inspector.

Reference your office memo. No. 265/CR-I/Crime, dated 17.01.2019, on the subject cited above.



The application dated 10.01.2019 submitted by Inspector (Exe.) Sunil Kumar Jain, No. D-3586 for declaration of his probation period in the rank of Inspector (Exe.) has been considered in this Hdqrs. and it has been found that a criminal case FIR No. 49/2014 u/s 7/3 POC Act PS ACB/CBI is pending against him. Besides, a complaint case No. 03/2001 u/s 195 CrPC is also pending against him. As per instructions on the subject contained in Circular No. 7499-7598/CB-I, dated 20.02.1998, the officers/men who are under suspension and/or are facing enquiry/investigation of any kind will be considered for confirmation or completion of probation period at the due time but the decision in their regard will be announced on finalization of enquiry/investigation pending against them.

In view of above, his case for declaration of probation period may be taken-up with this Hdqrs. as soon as the above cases are finalized and the Inspector is clear from vigilance angle.

The Inspector may informed accordingly.”

4. It is the case of the applicant that the applicant has been exonerated from both the cases referred to in the aforesaid impugned order. Accordingly, he submits that the applicants claim is required to be reconsidered by the respondents.
5. In this regard, he refers to the order dated 29.08.2020 in CC No.07/2020 (Annexure-M-1), order dated 02.11.2020 in SC No.491/19 (Annexure-M-2) and also another order dated 09.11.2020 (Annexure-M-3).



6. The aforesaid orders have not been disputed by the respondents in their pleadings.
7. In view of the aforesaid facts and circumstances, without going into the merit of the claim of the applicant, the present OA is disposed of with direction to the respondents to re-visit their order dated 28.03.2019 (Annexure-A-1), impugned in the present OA, and to consider and pass an appropriate reasoned and speaking order as expeditiously as possible and in any case within eight weeks of receipt of a copy of this Order.
8. If on such reconsideration by the respondents, the applicant is found to be eligible for any consequential benefits, the respondents shall release such benefits to the applicant within six weeks of their order after the reconsideration.
9. The OA is disposed of in the aforesaid terms. No cost.

(Mohd. Jamshed)
Member (A)

(R.N. Singh)
Member (J)

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