

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 11th day of May, 2000

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ORIGINAL APPLICATION NO. 531/88

CORAM: Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. Rafiq Uddin, Member (J)

Raghuvansh Singh Rana, aged about 47 years,
Son of Sri Udaiveer Singh Rana, presently
posted as Superintendent of Police, Special
Branch, Intelligence Department, U.P.,
Lucknow.

... Applicant

C/A Shri D.B. Singh
Shri R.K. Singh

Versus

1. Union of India, through the Secretary,
Ministry of Home, North Block, New Delhi,
2. State of Uttar Pradesh, through its Secretary,
Home Department, Uttar Pradesh Shashan,
Civil Secretariat, Lucknow.
3. Rakesh Mittal, I.P.S., Assistant Director,
Cabinet Secretariat, Government of India,
8-B, South Block, New Delhi.
4. Sunil Krishna, I.P.S., Asstt. Inspector General
Police, Training, U.P., Lucknow.
5. Vikram Srivastava, I.P.S., Assistant
Director, Special Protection Group, Government
of India, 9, Race Course Road, New Delhi.
6. Syed Khalid Rizvi, Supdt. of Police,
Crime Branch, C.I.D., Lucknow.

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7. Smt. Kanchan Chaudhary, Bhattacharya,
A.I.G., W/ZHQrs., Central Industrial Security
Force, R.C.F.L. Complex, Chembur, Bombay.
8. Chaman Lal, Senior Supdt. of Police,
Varanasi.
9. Thangjamang Owite, Asstt. Director,
S.I.S., M.H.A., Manipur.
10. Sudhir Kumar Awasthi, Supdt. of Police,
Vigilence Establishment, Nainital.
11. Uttam Kumar Bansal, Sr. Supdt. of Police,
Saharanpur.
12. A. Palanivel, Supdt. of Police, Vigilence,
U.P., Lucknow.
13. C.M. Bhatt, Sr. Supdt. of Police,
Mirzapur.
14. Ranjit Kumar Bhatia, Supdt. of Police,
C.B.I., Department of Personnel & Training,
C-1, Hutments, Dalhauzi Road, New Delhi.
15. Vikram Singh, Sr. Supdt. of Police,
Agra.
16. Bal-Raj Krishna Bhola, Supdt. of Police,
Lalit pur.
17. Jitendra Kumar, Supdt. of Police, E.O.W.,
U.P., Lucknow.
18. Indra Singh Mehra, Sr. Supdt. of Police,
Fatehgarh.
19. Rai Umapat Ray C/o S.P., D.G.P. Office U.P.
At Lucknow.
20. Sri Shiv Nath Chak, Supdt. of Police,
Mathura.
21. Smt. Suraj Kaur Mehra, Joint Director
(Administration) Proxecution Directorate, Lucknow.

22. Mohan Das Menon, Asstt. Director, Cabinet
Secretariat, Government of India, 8-B, South Block
New Delhi.
23. Sri Rajiv, Supdt. of Police, Unnao.
24. Rajendra Singh Dhillon, Sr. Supdt. of Police,
Bulandshahr.
25. Karam Vir Singh, C/o Director General,
Police, U.P., Lucknow.
26. Alope Behari Lal, Commandant XXXII Bn., P.A.C.,
Lucknow.
27. Pritam Pal Singh, A.D., National Police Academy,
Hyderabad (A.P.)
28. Babu Lal Yadav, Supdt. of Police, Sitapur.
29. Vikram Chandra Goel, Supdt. of Police,
C/o D.G.P. (U.P.) Lucknow.
30. Dharendra Narain Samal, Supdt. of Police,
Rae Bareilly.
31. Dinesh Kumar Sharma, Supdt. of Police,
Intelligence Department, Lucknow.
32. Bishnu Pada Chakraborty, Supdt. of Police
Bahraich.
33. Bidhan Chandra Nayak, Central Intelligence
Officer, SIB, Agartalla.
34. Vibhuti Narain Rai, Sr. Supdt. of Police,
Kumbh Mela, Allahabad.
35. Om Prakash Singh Malik, Sr. Superintendent
of Police, Azamgarh.
36. Prare Lal, Senior Supdt. of Police, Etah.
37. Subhash Joshi, Supdt. of Police, Railways,
Lucknow.
38. Jyoti Swarup Pandey, Supdt. of Police,
Vigilance, Agra.

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39. Manoj Kumar, Supdt. of Police, Dehradun.
40. Shailendra Sagar, Supdt. of Police, C.B.,
C.I.D., Lucknow.
41. Mahabir Singh Bali, Supdt. of Police (R),
Intelligence Department, Meerut.
42. Smt. Renuka Muttoo, Joint Asstt. Director, S.I.B.,
MHA, 110, Mall Road, Lucknow.
43. Satya Vrat Bansal, Supdt. of Police,
Regional Intelligence, Bareilly.
44. Prem Chandra Sabarwal, Supdt. of Police,
Fatehpur.
45. Shital Prasad Srivastava, Supdt. of Police,
C/o D.G.P. (U.P.) Lucknow.
46. Rajendra Kumar Tewari, Supdt. of Police,
Rampur.
47. Padman Singh, Supdt. of Police, Kheri.
48. Sri Atul, Supdt. of Police, Gonda.
49. Deo Raj Nagar, Supdt. of Police, Badaun.
50. Udyan Parmar, Supdt. of Police, Ghaziabad.
51. Alexander Daniel, Supdt. of Police,
Pratapgarh.
52. Hoshier Singh Balwaria, Supdt. of Police,
Bijnor.
53. Harbhajan Singh, Supdt. of Police, Basti.
54. Rati Ram, Supdt. of Police, Vigilance
Establishment, Gorakhpur.
55. Prakash Singh, Senior Supdt. of Police.
Etawah.
56. Ram Lal Ram, Sr. Supdt. of Police, Jalaun.
57. Kavi Raj Negi, Commandant XXXI Bt.,
P.A.C., Rudrapur, Nainital.

58. Ramesh Sehgal, Supdt. of Police,
CB, CID, Lucknow.
59. Braj Mohan Saraswati, Supdt. of Police,
CB, CID, Lucknow.
60. Mumtaz Ahmad, Supdt. of Police, Traffic,
Lucknow.
61. Om Prakash Dikshit, Superintendent of Police,
C/o D.G.P. (U.P.), Lucknow.
62. Ambrish Chandra Sharma, Supdt. of Police,
Vigilence, Varanasi.
63. Vinod Kumar Singh, Supdt. of Police,
Baravanki.
64. S. Balaji, Supdt. of Police, EOW, C.B.I.,
Madras.
65. Arun Kumar Gupta, Supdt. of Police,
Banda.
66. Viwjamar Ramanujan Sampath Assistant Director,
Directorate of Civil Aviation, Security, Madras.
67. Brij Lal, Superintendent of Police.
Pilibhit.
68. Rameshwar Dayal, Superintendent of Police,
EOW, CID, Kanpur.
69. Malkiat Ram, Superintendent of Police,
Almora.
70. Bansi Lal, Superintendent of Police,
Pauri Garhwal.
71. Koduri Satyanarayana, Supdt. of Police,
CB, CID, Lucknow.
72. Satyrat Tripathi, Supdt. of Police,
Hardoi.
73. S.K. Mishra, Supdt. of Police, Ballia.

74. Hari Raj Singh Phogat, Senior Supdt. of Police, Mainpuri.
75. Surendra Nath Singh Supdt. of Police, Muzaffar Nagar.
76. Chandra Dutta Sharma, Supdt. of Police, Police Training School, Siswa Bazar, Gorakhpur.

.... Respondents

C/R Shri K.P. Singh

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A))

This application was filed by the applicant seeking a direction to the respondent No. 1 and 2 to determine seniority and year of allotment of the applicant from 01.04.77 when he was deemed to have been initially appointed/promoted in the senior post of I.P.S. and continuously worked till he was finally appointed in I.P.S. by the Central Government. The applicant seeks setting aside of seniority list dated 24.04.1987 and seeks the placing of his name above the name of respondent no.3 i.e. Sri Rakesh Mittal who was promoted to Senior scale of I.P.S. w.e.f. 09.08.1977. The applicant has also sought direction to the respondents to treat explanation 1 to rule 3 (3) (b) of the I.P.S. (regulation of seniority) rules 1954 as ultra vires and violative of article 14 and 16 or to have been relaxed by the government and determined the order of allotment and seniority of the applicant in I.P.S. Consequential benefits have also been sought.

2. The case of the applicant is that after having

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served as Emergency Commissioned Officer in the army from 1963 to 1968, he was recruited as Deputy Superintendent of Police and was posted on that post on 05.01.1971. On account of his service in the army he was assigned seniority of 1963. The respondent No. 2 constituted a selection committee in the year 1976 and 1977 for preparing panel of officers of U.P. Police ~~xxxxxxx~~ for being given ad-hoc promotion as superintendents of Police. The list prepared by respondent No. 2 did not include the name of the applicant but included the names of his junior as well as of respondent No. 74 in a selection held on 24.11.1976. Another Selection Committee met on 02.05.1977 in which the names of his juniors who are Respondent No. 75 and 76 along with four others were included. The applicant received adverse entries for the year 1974-1975 and 1975-1976 just a week before the second selection. The applicant made a representation which remain unattended and therefore, filed an application no. 319(1) of 1977 before the U.P. Public Service Tribunal, Lucknow challenging the validity of supersession and seeking direction for his promotion from 01.04.1977. The respondents contested the claim on the ground that supersession was made on the basis of two adverse entries in the year 1974-75 and 1975-76. The U.P. Public Service Tribunal allowed the claim of the applicant and set aside the selection proceeding held on 24.11.1976 and 02.05.1977. The applicant was promoted on 11.07.1979 to the Senior scale post of I.P.S. Cadre and posted as Superintendent of Police Kanpur. The Government rejected his memorial dated 21.06.1979 and therefore, he filed another application No. 206/II 1980 before U.P. Public Services

Tribunal Lucknow challenging the validity of the afore-said two adverse entries. This application was allowed toto. The Writ Petition preferred by the State Government before Lucknow Bench of the High Court of Judicature at Allahabad was dismissed. The respondent No. 2 included the name of the applicant in the select list of 1982.

3. The arguments of Shri K.P. Singh have been heard.

4. Learned counsel for the respondents has mentioned that the relief claimed by the applicant ^{drawn} has been allowed. He has in this connection / attention to order no. 4492 APS 0-2-504/10/86 dated 01.04.1989 by which the applicant was deemed to have been included in the list of persons eligible for promotion as Superintendent of Police or on equivalent post on ad-hoc basis as made by selection committee w.e.f. 01.04.1977. A post was created in the State Police Service of the level of Superintendent of Police from 01.04.1977 to 10.07.1979 and the applicant was ordered by the Governor to be appointed on the post.

5. The claim of the applicant made in the O.A. before us was earlier considered by Division Bench of this Tribunal. The Division Bench in the light of law already laid down with regard to this in O.A. no. 45/88 with O.A. No. 46/88 and 467/88 by judgement of order dated 23.03.1989 and in O.A. No. 702/87 of judgement order dated 30.01.1989 directed the respondents to regularise his seniority within three months from the communication of this order

and directed the respondents no. 1 and 2 to re-determine the seniority of the applicant treating him to have been appointed in the IPS cadre w.e.f. 01.04.1977.

6. The Union of India went in an appeal against this order in Civil Appeal No. 6524/97 before the Apex Court which directed as under :-

"The date of appointment of the respondent to the IPS can be altered only if his name is included in the select list from an earlier date and he can be held entitled to be appointed to the IPS on the basis of such inclusion in the earlier select list for IPS. As to whether he was entitled to be included in the select list from an earlier date in view of the expunction of the adverse remarks in the Annual Confidential Reports for the years 1974-75 and 1975-76 can only be considered by a Selection Committee duly constituted for that purpose. Without giving any such direction regarding consideration of the case of the respondent for inclusion in the earlier select list it was not open to the Tribunal to hold that the respondent should be treated to have been appointed in the IPS cadre w.e.f. April 1, 1977. Since this question has has not been gone into by the Tribunal in this light, we consider it appropriate that the matter be remitted to the Tribunal for considering the matter. The appeal

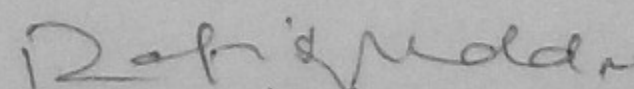
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is, therefore, allowed, the impugned judgement of the Tribunal is set aside and C.A. No. 531 of 1988 filed by the respondent is remitted to the Tribunal for consideration. It is stated that the respondent is due to retire in May, 1998. Keeping in view the aforesaid circumstance, the Tribunal may expedite the hearing of the matter and dispose of the same, preferably within the period of four months.

No order as to costs."

7. We, in the light of the above order of the Apex Court, direct the respondents to consider the case of the applicant in a review selection committee in the light of expunction of adverse remarks in the annual confidential report of the year 1974-75 and 1975-76 for promotion from the date his juniors were considered and promoted. In case applicant is found suitable for inclusion in the select list of an earlier date he shall be allowed all consequential benefits from the date of promotion of his junior included in that select list. We find that the applicant has sought Explanation 1 to Rule 3 (3)(b) of Indian Police Service (Regulation by Seniority) Rules 1954 to be declared ~~ultravires~~. In the light of law laid down in V.K. Ahluwalia Vs. Union of India and others 1979(2) S.L.R. (229) and O.S. Singh Vs. Union of India 1995(5) S.L.R. (Supreme Court) 626, we clarify that Explanation I shall not come in the way of consideration of the application for promotion from an earlier date.

8. There shall be no order as to costs.


Member (J.)


Member (A.)