

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW

ORIGINAL APPLICATION NO: 353OF 2005

THIS THE 19 TH DAY OF DECEMBER 2005

HON'BLE SHRI JUSTICE M.A. KHAN, VICE CHAIRMAN
HON'BLE SHRI S.P. ARYA, MEMBER (A)

Ashok Kumar Mishra, aged about 59 years, son of Late Surendra Nath Mishra
Presently posted as D.I.G. Inter State Boarder Force at Saharanpur.

Applicant.

By Advocate: Shri A.K. Mishra applicant in person.

VERSUS

1. Union of India, through the Secretary, Ministry of Home Central Civil Secretariat, New Delhi.
2. Union Public Service Commission, Dhaulpur House, New Delhi through its Secretary.
3. State of U.P. through the Principal Secretary Department of Home, U.P. Civil Secretariat, Lucknow.

Respondents.

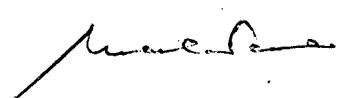
BY Advocate: Shri Deepak Shukla for Shri S. K. Tewari for respondent No.1.
None for respondent No. 2 and 3.

ORDER(ORAL)

BY HON'BLE SHRI JUSTICE M.A. KHAN, V.C.

The present O.A. is filed for direction to the respondents to consider the applicant for promotion in I.P.S. Cadre against 1984 Batch from the date his junior in the State Service was given such promotion and fix his seniority in the seniority list accordingly and further direction that the applicant be considered for promotion to the post of Inspector General of Police.

2. It is ~~briefly~~ stated in the Original Application that the applicant was the member of Police Services of the State belonging to 1969 Batch. In 1989 a D.P.C. was convened and some officers, who were junior in the list, were inducted into I.P.S. cadre while the applicant was not so inducted at that time. He made a representation in this regard but the respondents have taken no action. Shri Shiv Kumar Sharma and H.N. Srivastava were also the member of Police

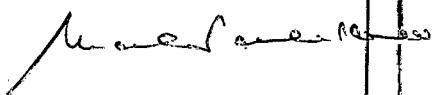


Services of the State as belonged to 1968 batch. They were inducted in I.P.S. H.N. Srivastava was immediately above the applicant in the seniority list dated 19.9.1995. He was promoted to IPS on 19.12.1990. The applicant was allotted the seniority of year 1985. Though the applicant was recommended for promotion to IPS with S/Shri H.N. Srivastava and S.K. Sharma but review committee was constituted for promotion of only the aforesaid two persons in pursuance to the certain direction of the Hon'ble Supreme Court in Civil Appeal No. 10396/1995. The applicant made a representation for extending similar benefits to him also, Copy of which has been filed as Annexure A-5 but no action thereon has been taken by the respondents.

3. Despite direction to the respondents and giving them opportunity none of the respondents have cared to file the counter reply and contest the case. By order dated 29th September 2005, the respondents were given last opportunity to file counter affidavit and they were warned that in case it was not filed the case would be heard ex-parte today. None of them is represented today. Counter Reply has not been filed. We close their right to file counter affidavit and hear the matter ex-parte.

4. Since the main contention of the applicant is that he should be treated with equality with Shri Shiv Kumar Sharma and H.N. Srivastava who had filed S.L.P. No. 10396 of 1995 in the Hon'ble Supreme Court and certain directions were issued to the respondents to consider their induction in I.P.S. from the earlier date when others were given the benefit. It is alleged that respondents have not taken into consideration the judgment in Shiv Kumar Sharma and Others Vs. Union of India and Others copy of which has been placed on record at Annexure No. 1.

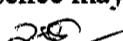
5. In the facts and circumstances of the case, we are of the view that the respondents should consider the representation of the applicant in the light of the order of the Hon'ble Supreme Court in Civil Appeal No.10396/95 in the case of

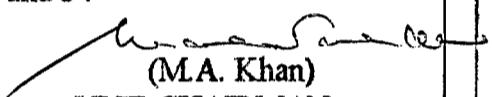


Shiv Kumar Sharma and Others Vs. Union of India and Others which was decided on 21.1.1997 copy of which has been placed on record at Annexure No. 1. For this purpose, the present O.A. may also be considered an additional representation made by the applicant to the respondents for redressal of his grievance pleaded therein. The respondents shall decide the representations of the applicant by a speaking order within a period of three months from the date on which certified copy of the order is received by them.

6 The O.A. stands disposed of in terms of the above directions. No costs.

At this stage Shri Raj Singh for Shri A. K. Chaturvedi has stated that his presence may be recorded on behalf of respondent No. 2 and 3 .


(S.P. Arya)
MEMBER (A)


(M.A. Khan)
VICE CHAIRMAN

v.