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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

S.A. No. 520/89

Dr. G.K.Shukla

Applicant

versus

Union of India & others

Respondents.

Shri S.C.Buchwar
Shri Anoop Kumar

Counsel for applicant.
Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C.Srivastava, V.C.
Hon. Mr. K.Obayya, Adm. Member.

(Hon. Mr. Justice U.C.Srivastava, V.C.)

The applicant who retired on 30th June, 1988 from the Indian Police Service, filed this application before this Tribunal in the year 1989 praying that the respondents may be directed to grant selection grade to the applicant N.e.f. 1.1.83 since when the I.P.S. officers of U.P. cadre of 1970 year of allotment have been sanctioned selection grade in accordance with I.P.S.(Pay)rules, after having 13 years of service and a mandamus be issued to the respondents to consider the applicant for promotion to the post of D.I.G. of Police from the date earlier when his juniors Shri Tilak Kak etc. were considered and having found fit to give notional promotion to the applicant on the post of D.I.G. from the date earlier since when juniors to the applicant were given the said promotion, and the respondents be also directed to fix the salary and allowances of the

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applicant in the pay scale of selection grade and that of D.I.G. of police, in case he is found fit for promotion and to pay all arrears and other benefits and to fix pension of the applicant and other retiral benefits treating the applicant as having retired from the post of D.I.G. of police, and also to pay interest at the rate of 18% per annum on the late payment of salary.

2. The applicant who was selected by U.P.S.C in the year 1956 in the cadre of U.P. Police service, and was promoted on senior post in I.P.S. under Rule 9 of the I.P.S. (Cadre) Rules and joined the post on 8.7.1972, whereafter he was posted as Superintendent of Police of Etawah District and his name was included in the I.P.S. prepared in the year 1974 under Regulation 5(1) of the I.P.S. (Appointment by promotion) Regulations and was formally appointed in the I.P.S. on 22.8.1977 and was confirmed on 22.8.1978. According to the applicant, when he was posted as S.S.P., Etawah one dacoit gang led by Lala Ram committed murder of 13 persons and the applicant who was on leave, was placed under suspension on 6.6.84 which suspension was revoked and he was again reinstated in the year 1984. On 19.6.85 a charge sheet was issued to him stating that he did not take adequate precautionary measures to protect the life and property of the villagers. The departmental enquiry proceeded and the enquiry officer concluded that the charges levelled against the applicant were not proved and suggested that the applicant be warned to be more vigilant and active in future. But the

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disciplinary authority ~~but the disciplinary authority~~ disagreed with the finding of the enquiry officer's report and sought advice from the U.P.S.C., who advised for withholding of promotion including the grant of selection grade till the date of superannuation which was accepted by the State Govt. and vice order dated 24.7.87 the punishment was imposed on the applicant. The said order was challenged before this Tribunal in O.A. No. 822 of 87 and the tribunal vice order dated 9.2.88 set aside ~~the~~ the impugned order dated 24.7.87 as well as reference made by the State Govt. and the order was thereafter implemented. The benefit of the same was not given to the applicant; in as much as he was entitled to the selection grade with effect from 1.1.83 but the applicant was deprived of it. Although the selection committee met, but the case of the applicant was not considered. Applicant made several representations but ~~of no~~ avail.

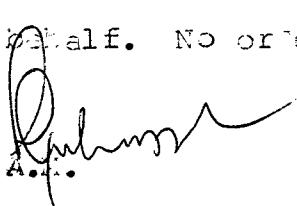
3. According to the applicant, his seniority was not determined and it was determined only on 11.6.87 and he was not at all considered for promotion, even after, during the pendency of O.A.No. 822/87, the direction by the Tribunal to consider the applicant also for promotion to the post of D.I.G. and the order dated 24.7.87 was set aside on 9.2.88.

4. It is not necessary to refer to various Counter pleas. Vide Supplementary/Affidavit it has been stated that the applicant was chargeshifted on 26.6.88 and the departmental proceedings were pending against the applicant. It has been stated that the Selection committee considered the case of the applicant also for the promotion post but the proceedings were kept in sealed cover

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The learned counsel for the applicant contended that admittedly there was no charge sheet against the applicant while the Departmental Promotion Committee met and as such the procedure of sealed cover could not have been adopted and the respondents could have declared the result. In this connection he has made reference to the case of Union of India v. S. K.V. Jankiraman (A.I.R. 1991 S.C. 2010) wherein it has been held that it is only after the issuance of the chargesheet the disciplinary proceedings will be deemed to have been initiated and the sealed cover procedure is to be adopted. Precisely the same position arises in this case.

5. The respondents are directed to open the sealed cover and in case the applicant has been found suitable, he may be given promotion with effect from the date he was entitled to and w.e.f. the date others have been given promotion or next junior to the applicant was given promotion with consequential benefits. The result of the charge sheet will take its own course and the respondents will proceed with the enquiry taking into consideration the pleas of the applicant that no action can be taken against him on the basis of the charge sheet or the basis of 'grave misconduct'. We make no observation in this behalf. No order as to costs.


A. A. Shaked
Shaked/
Lucknow: Dated 17.9.92


V.C.