

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. . : 835 of 1999.

Dated this Monday, the 16th day of October, 2000.

Karl D'Souza _____ Applicant.

Shri S. R. Atre, _____ Advocate for the
applicant.

VERSUS

Union of India & Others, _____ Respondents.

Shri R. K. Shetty, _____ Advocate for
Respondent Nos. 1 & 2.

Shri V. S. Masurkar _____ Advocate for
Respondent Nos. 3 to 5.

CORAM : Hon'ble Shri Justice, Ashok Agarwal, Chairman.
Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
(iii) Library.

} No


(ASHOK AGARWAL)
CHAIRMAN.

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Hon'ble Shri B. N. Bahadur, Member (A).

Karl D'Souza,
Superintendent of Police (L&R),
State C.I.D., (Crime), Pune,
Maharashtra State.

... Applicant.

(By Advocate Shri S. R. Atre)

VERSUS

1. The Union of India through
The Secretary,
Ministry of Home Affairs,
Government of India,
South Block,
New Delhi 110 010.
2. The Chairman,
Union Public Service Commission,
Dholpur House,
Shahajahan Road,
New Delhi - 110 001.
3. The Government of Maharashtra,
through the Chief Secretary
to the Govt. of Maharashtra,
General Administration Department,
Mantralaya, Mumbai - 400 032.
4. The Additional Chief Secretary,
Government of Maharashtra,
Home Department, Mantralaya,
Mumbai - 400 032.
5. The Director General & Inspector
General of Police,
Maharashtra State,
S.B.S. Marg, Mumbai - 400 005. ... Respondents.

(By Advocate Shri R. K. Shetty for
Respondent Nos. 1 and 2.
Shri V.S. Masurkar for Respondent Nos. 3 to 5).

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OPEN COURT ORDER

PER : Shri Justice Ashok Agarwal, Chairman.

By the present O.A. applicant claims direction to the respondents to consider his claim for promotion to the post of Deputy Inspector General of Police. Applicant, it appears, is a physically handicapped person. This is clear from the Annual Confidential Reports for the year 1986-87 and 1994-95, which recite as under :

"The Annual Confidential Report on your work for the year 1986-87 contains the following remarks :-

'Dedicated to the highest standard of work and motivated by an urge to achievements. Judicious though occasionally impulsive, succinct written skills, orally diffident because of his natural handicap, quite sympathetic towards weaker section. Has the ability to organise, somewhat reserved, mentally alert. Physically restricted by a handicap. In spite of his handicap of hearing problem, he has achieved very good results in the investigation of complicated cases; has a very good investigative insight. He suffers from physical disability of both hearing and moving about; not medically fit for field duties, but makes up by hardwork, sincerity and intelligence'.

2. You are requested to take note of the critical part of the above remarks."


"The Annual Confidential Report on your work for the year 1994-95 contains the following remarks :-


'The Officer is totally handicapped. He is totally deaf with the result that though his mental faculties are good, his decision making capacity is drastically reduced. Since he cannot hear at all what others are saying, his capacity to supervise, including Man-management, communication, inter-personal relations and decision making ability are badly affected. Though he is quite intelligent, he can only function with the assistance of a very good assistant.

2. Please take note of the critical part of the above remarks for your guidance in future."

It is not disputed that applicant is physically handicapped. Whether applicant is eligible and is accordingly entitled for promotion from the post of Superintendent of Police to that of Deputy Inspector General of Police, is a matter entirely which rests with the Department. Merely because services of the applicant have been otherwise found to be commendable and certificates to that effect have been issued in his favour, the same will not automatically entitle him for promotion. The applicant has been considered for the aforesaid promotion from 13.11.1990 to 14.05.1999 on seven occasions and has been found ineligible. These are matters for Expert Bodies like Screening Committee. No directions can, therefore, be issued by the Tribunal.

2. The present O.A., in the circumstances, is found as devoid of merits and the same is accordingly dismissed. We however clarify that the rejection of the present petition will not come in the way of the applicant for being considered for promotion or for any other reliefs in future. No costs.


(B. N. BAHADUR)
MEMBER (A).


(YASHOK AGARWAL)
CHAIRMAN.