

THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDER SHEET

⑤

APPLICATION NO. : _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

05/12/2012

O.A. 516/2012

Present : Mr. C.B. Sharma counsel for the applicant.
Mr. Mukesh Agarwal counsel for the respondents No. 1 and 5.
None for the remaining respondents.

This case has been listed before the Joint Registrar due to non availability of Davison Bench. Let the matter be placed before the Hon'ble Bench on 12/12/2012.

(Gurmit Singh)
Joint Registrar

VV

12-12-2012

Mr. C.B. Sharma - counsel for applicant -
Mr. V.D. Sharma - counsel for Resp. 1 & 5
Mr. Mukesh Agarwal - counsel for resp. 2 to 4

Heard the learned counsel for the Parties.

The OA stands disposed of by a separate order for the reasons dictated therein.

Anil Kumar
(Anil Kumar)

10. S. R. Ratter
(Justice U.S. Rafter)

Member (A)

Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 12th day of December, 2012

Original Application No.516/2012

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Satish Kumar Khurana
s/o Shri Basant Lal Khurana,
aged about 58 years,
r/o R-396, Padam Villa,
Krishna Nagar, Bharatpur and
Presently posted as
Additional Superintendent of Police,
C.I.D. (S.B.), Zone Bharatpur,
District Bharatpur.

... Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. State of Rajasthan, through its Principal Secretary, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.
2. Union of India through its Secretary, Ministry of Personnel, Public Grievances and Pensions, Government of India, Department of Personnel and Training, North Block, New Delhi.
3. Union of India through its Secretary, Ministry of Home Affairs, Government of India, New Delhi.

4. Union Public Service Commission through its Secretary, Dholpur House, Shahjahan Road, New Delhi.
5. State of Rajasthan through its Principal Secretary, Department of Home, Government of Rajasthan, Secretariat, Jaipur

... Respondents

(By Advocate : Shri V.D.Sharma for resp. 1 & 5 and Shri Mukesh Agarwal for resp. 2 to 4)

ORDER (ORAL)

This is second round of litigation. Earlier the applicant preferred OA No. 565/2011 and the same was disposed of vide order dated 25.11.2011. While disposing of the said OA, this Tribunal directed the respondents to consider and decide representation of the applicant dated 16.11.2011 by passing a reasoned and speaking order and decision so taken on the representation be communicated to the applicant expeditiously, but in any case, not later than a period of two months from the date of receipt of copy of the order. Liberty was also granted to the applicant to approach this Tribunal, if any prejudicial order against his interest is passed by the respondents.

2. The respondents have not decided the representation of the applicant within the stipulated period as directed by this Tribunal vide its order dated 25.11.2011, therefore, the applicant



filed Contempt Petition No.9/2012 before this Tribunal and the same was dismissed vide order dated 30.7.2012 as the respondents have decided the representation dated 16.11.2011 by a speaking order dated 20.6.2012. Consequently, the Contempt Petition was dismissed and notices issued to the respondents were discharged.

3. Now the substantive OA is directed against the order dated 20.6.2012 (Ann.A/1) whereby representation of the applicant dated 16.11.2011 has been decided. The learned counsel for the applicant referred to the judgment rendered by the Hon'ble High Court in S.B. Civil Writ Petition No.5814/1998 wherein the Hon'ble High Court allowed the Writ Petition vide its judgment dated 19.12.2008 and the respondents were directed to hold a review DPC for the purpose of promotion of the petitioner which was held on 23.11.1995. The Hon'ble High Court further directed that the petitioner may be considered for promotion ignoring adverse remarks recorded in the APAR of the year 1994-95 and in case the petitioner is promoted, then he will be entitled to all consequential benefits w.e.f. 23.01.1996, the date from which the persons juniors to him were promoted.



4. It is not disputed that the judgment of the Hon'ble High Court dated 19.12.2008 has been complied with and in pursuance to the judgment of the Hon'ble High Court, the applicant was allowed Senior Scale, Selection Scale and Super Time Scale from the date juniors so allowed and also assigned due seniority after allotment of year in these scales vide order dated 1.11.2011 (Ann.A/10). The learned counsel for the applicant submitted that thereafter the applicant became entitle for consideration and appointment/promotion to the cadre of IPS in the year 2006 and 2007 as per his service record and date of birth i.e. 1.11.1953 as upto 31.10.2007 the applicant was within the age of 54 years and particularly in the year 2007, when his junior Shri Praveen Sharma was appointed/promoted to the cadre of IPS.

5. Upon careful perusal of the order dated 20.6.2012 (Ann.A/1), it appears that representation dated 16.11.2011 has not been considered by the respondents objectively and no reasoned order is passed on the representation of the applicant as this aspect has not been examined that pursuant to Hon'ble High Court judgment, the applicant was allowed Senior Scale, Selection Scale and Super Time Scale and also assigned seniority after allotment of year in these scales vide order dated 1.11.2011




and it is also not disputed that Junior Shri Praveen Sharma has been appointed to the cadre of IPS, therefore, in our view, the case of the applicant has not been considered at par with Shri Praveen Sharma.

6. Therefore, without expressing any opinion on merit of the case and without dealing with the submissions made by the respective parties and the judgments referred, we deem it proper to direct the respondents to reconsider the representation of the applicant dated 16.11.2011 objectively as per provisions of law and if the applicant is otherwise found eligible, he may be considered for appointment/promotion to the cadre of IPS and shall pass a reasoned and speaking order.

7. It is made clear that the representation of the applicant shall be reconsidered expeditiously but not later than a period of two months from the date of receipt of a copy of this order.

8. With these observations, the OA stands disposed of with no order as to costs.


(ANIL KUMAR)
Admv. Member


(JUSTICE K.S.RATHORE)
Judl. Member

R/