

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH
CHANDIGARH**

Date of filing : 14.11.2014

Reserved on : 02.06.2016

Pronounced on : 07.6.2016

OA No. 060/01026/14

Coram: Hon'ble Mr. Justice L.N. Mittal, Member(J).
Hon'ble Mrs. Rajwant Sandhu, Member(A).

Kapil Dev Sharma son of Mam Chand Sharma, aged about 56 years, Inspector No. 302/CHG, presently posted in VIP Security, Sector 29, Chandigarh.

.....Applicant

By Advocate : Sh. Arun Singla

Versus

1. Chandigarh Administration through Home Secretary, Union Territory, Chandigarh.
2. The Inspector General of Police, Union Territory, Chandigarh.
3. Shri Ram Gopal, Inspector of Police, 320/CHG, Union Territory, Police Department, Chandigarh.

.....Respondents

By Advocate : Sh. Arvind Moudgil for respdts. No. 1 & 2
Sh. R.K. Sharma for respdt. No.3.

ORDER

By Hon'ble Mrs. Rajwant Sandhu, Member(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

- (i) To quash the order dated 20.06.2014 (Annexure A-12) passed by respondent No. 4 whereby the recommendations of the Committee are accepted and the claim of the applicant for out of turn promotion under the Sports Quota as Inspector retrospectively has been rejected.

- (ii) For issuance of direction to the respondents No. 1 & 2 to consider the applicant and to promote him to the post of Inspector of Police against Sports Quota retrospectively from the date his junior, respondent No. 3, was promoted with all consequential benefits.

2. It is stated in the OA that the applicant was appointed as Constable in the Police Department of Chandigarh Administration under the Sports Quota on 7.7.1981. He was a member of the Handball team and had played in the following tournaments:-

- (i) Ist International Handball Tournament held in Hyderabad in 1981. The applicant got the 3rd position in this tournament.
- (ii) National Games held in New Delhi in 1983 when he won Gold Medal.
- (iii) 9th Asian Games held in Delhi in 1982 when the applicant was part of the Handball team that played for India.
- (iv) Hongkong International Tournament held in 1986 where the applicant secured position.

The applicant was adjudged as Grade A (Group II)(E) Sportsman in Handball by the Chandigarh Administration.

3. It is further stated that in view of the achievements of the applicant in the field of sports, he was brought on list C-II (Exemtees) w.e.f. 21.4.1982. He was promoted as Head Constable in 1982 and was brought on list-D which is maintained for promotion to the post of ASI vide promotion order dated 07.12.1990. The applicant was promoted to the post of Sub Inspector on 11.6.1996 (Annexure A-5). As per this promotion order, the applicant was assigned promotion at Sr. No. 13 whereas respondent No. 3 (Ram Gopal) was promoted at Sr. No. 23. No benefit of sports achievement was granted to the applicant for promotion.

4. Inspector General of Police (IGP), UT, Chandigarh, framed Rules vide Notification dated 14.6.1988 that govern the promotion of officials under Sports Quota. As per Rule 13.1 of the Punjab Police Rules, 5% of the posts meant for promotion are to be filled from the eligible persons from the Sports Quota and the persons who secured 25 marks according to the instructions dated 14.6.1988,

As —

98

acquire the eligibility for promotion from the Sports Quota and applicant had indeed secured more than 25 marks. Even the Standing Order No. 10/96 (Annexure A-6) passed by the Inspector General of Police, UT, Chandigarh on 14.8.1996 lays down that the promotion is to be made to the post of Inspector in recognition of achievement at international level and a rider has been provided in the Standing Order that the performance should be later than the earlier achievement for which the candidate had already been rewarded by way of promotion. The applicant had achieved the distinction in Commonwealth Handball Championship in 1994 which was an international event. The applicant had secured Silver Medal in an international competition, but had not been rewarded by way of promotion.

5. Aggrieved on this account, and the fact that the respondent No. 3 had secured the promotion, applicant filed OA No. 985/CH/1998 which was disposed of vide order dated 24.11.2000 with direction that the claim of the applicant and all eligible Sub-Inspectors be considered by the DPC for promotion from the Sports Quota to the post of Inspector of Police (Annexure A-7). The claim of the applicant was rejected vide order dated 23.2.2001 and he again filed OA No. 650/CH/2002 which was dismissed by the Tribunal on 19.12.2003 (Annexure A-8). The applicant challenged this order through CWP No. 14883 of 2004 which was finally decided on 30.1.2014. As per the order of the Hon'ble High Court, the respondents were specifically directed to consider the claim of the applicant afresh in accordance with Sports Gradation Policy applied in the case of respondent No. 3 i.e. Ram Gopal. The respondents in compliance of order dated 30.1.2014, convened DPC meeting but again rejected the claim of the applicant for promotion as per proceedings dated 04.6.2014 (Annexure A-11). The IGP, thereafter, vide order dated 20.6.2014 accepted the recommendations of the DPC and rejected the

As—



claim of the applicant for out of turn promotion under the Sports Quota as Inspector retrospectively (Annexure A-12). Hence this OA.


6. In the grounds for relief, it has, interalia, been stated as follows:-

- (i) Secretary General, Handball Federation of India, Lucknow, in letter dated 08.05.2014 has specifically stated and confirmed that the certificates of the applicant are genuine and the applicant has participated in 4th Commonwealth Handball Club Championship, 1994, held at Kauntan, Pahand Darull, Makmur, Malaysia, from 11th to 18th November, 1994 and 5th Commonwealth Handball Club Championship, 1994, held at Cochin, India from 2nd to 12th December, 1995 and specifically held that the Commonwealth Club Championship is an International Competition and the player participating in such competition is recognized as an International player.
- (ii) While disposing of the CWP No. 14883-CAT of 2004, the Hon'ble Division Bench has specifically observed that DPC is required to examine the issue whether the participation of the applicant is of international event and the same has been affirmed by the letter dated 8.5.2014 written by the Secretary General, Handball Federation of India, Lucknow to the Inspector General of Police, UT, Chandigarh.
- (iii) That the Departmental Promotion Committee has clearly fell in error while misinterpreting the contents of letter dated 08.05.2014, Sports Gradation Policy of 1993 and Standing Order 10/96.

7. In the written statement filed on behalf of respondents No. 1 & 2, preliminary objection has been taken that the present OA is barred by the principle of Res Judicata as this is the second round of litigation with regard to the same cause of action. It has been stated that as per letter dated 8.5.2014 (Annexure A-10), the certificates (Annexure A-3 & A-4) of the 4th and 5th Commonwealth Handball Championship, are not recognized as of Commonwealth games. The applicant does not ^{have} any achievements in the spirit of Standing Order No. 10/96. The case of the applicant was carefully considered by the DPC in compliance of the order of the Hon'ble high Court dated 30.1.2014 and rejected.

8. Written statement has also been filed on behalf of respondent No. 3 stating that Ram Gopal was promoted to the post of Inspector of Police against Sports Quota which has been upheld upto the Hon'ble Apex Court and as such, the applicant cannot raise any grievance against the answering respondent No. 3. The

As —



judgement of the Hon'ble High Court upholding the claim of the answering respondent is attached by the applicant as Annexure A-9 and copy of order dated 8.7.2014 passed by the Apex Court in SLP (C) No. 12919 of 2014 is attached as Annexure R-3/1. It has also been asserted that the applicant is not entitled for out of turn promotion under the Sports Quota as per the policy of the Police Department of Chandigarh Administration.

9. Arguments advanced by learned counsel for the parties were heard when learned counsel for the applicant reiterated the content of the OA and pressed that his participation in the 4th Commonwealth Handball Championships held in Malaysia in 1994 entitled him to be considered for out of turn promotion as Inspector. In this regard, he also referred to the certificate issued by the Commonwealth Handball Association (Annexure A-3) and certificate of 1995 (Annexure A-4).

10. Learned counsel for the respondents reiterated the content of their respective written statements and stated that the participation in the events of the Commonwealth Handball Association did not amount to participation in the Commonwealth Games.

11. We have carefully considered the matter, perused the material on record and the pleadings of the parties. The proceedings of the meeting of Chandigarh Police Departmental Promotion Committee held on 4.6.2014 (Annexure A-11) have been seen carefully. The DPC has considered the claim of the applicant for out of turn promotion as Inspector very thoroughly and examined the issue regarding participation of the applicant in the Commonwealth Handball Club Championships, 1994, held in Malaysia and the 5th Commonwealth Handball Club Championship, held in 1995 at Cochin, India in December, 1995 as to whether these can be considered at the level of the Commonwealth Games. The DPC considered the answers to the queries of the Committee, sent by the Secretary





General, Handball Federation of India also, and observed that as per the Sports Gradation Policy dated 7.5.1993 of Chandigarh Administration, a sportsperson of international standing will be one who has participated in the following:-

- (i) Olympic Games
- (ii) Commonwealth Games
- (iii) Asian Games
- (iv) Test Matches/One day matches in Cricket
- (v) Davis Cup in Tennis
- (vi) World Cup Tournament in respective games.

Commonwealth Handball Championship is not equated with Commonwealth Games but is a Club Championship and cannot be termed as an International sporting event as per the Sports Gradation Policy of 1993. We are in agreement with the conclusion of the DPC in this regard.

12. In view of the discussion above, we are unable to agree with the learned counsel for the applicant that participation in the Commonwealth Handball *Club* Championships in 1994 and 1995 would entitle the applicant to be considered for out of turn promotion to the rank of Inspector. Hence, we conclude that there is no merit in the OA and the same is rejected. No costs.

(RAJWANT SANDHU)
MEMBER(A)

(JUSTICE L.N. MITTAL)
MEMBER(J)

Dated: 07.6.2016
ND*