

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1504/2013

New Delhi this the 14th day of March, 2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Sh. Bhikamber

HC in Delhi Police

PIS No. 28940255

Aged about 40 years

S/o Sh. Durga Prasad

R/o 347-A, G-Block,

17 Feet Road, Molarband Extn.,

Badarpur, New Delhi-44.

..... Applicant

(through Sh. Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi through
Commissioner of Police,
PHQ, IP Estate, New Delhi.

2. DCP/Recruitment Cell,
NPL, Kingsway Camp, Delhi.

3. Deputy Commissioner of Police,
(Establishment), PHQ,
IP Estate, New Delhi.

..... Respondents

(through Sh. Amit Anand, Advocate)

ORDER (ORAL)

Mr. Shekhar Agarwal, Member (A)

The applicant was appointed as a Constable in Delhi Police in 1994. He applied for Promotion List-A Test of 2007 and qualified the same. His name was included in Promotion List-A w.e.f. 25.01.2008 vide Notification dated 29.01.2008. From that very date, he was also

promoted to the rank of Head Constable on ad hoc basis. Subsequently, he was promoted on regular basis w.e.f. 01.07.2009 vide order dated 08.07.2009. However, on 12.04.2013, the respondents issued a notice to him asking him to show cause why he should not be reverted to the post of Constable by removing his name from Promotion List-A on the ground that he had been wrongly awarded 02 marks for his higher educational qualification of MA. It was stated that had these 02 marks not been wrongly awarded to him, his name would not have figured in the Promotion List-A. On receipt of the show cause notice, the applicant has approached this Tribunal seeking the following relief:-

- "1. To call for the records relating the case of the applicant.
2. (A) To quash and set aside the impugned Show Cause Notice dt. 12.4.2013 and direct the respondents to maintain the promotion and Seniority of the applicant with all consequential benefits including seniority/promotion and pay.

Or alternatively (If A not possible)

(B) To direct the respondents to grant the applicant all those benefits that were given to HC Durgesh with all consequential benefits including seniority and subsequent promotions protecting the Pay Scale and Last Pay drawn by the applicant as on date.

Or alternatively (If A and B are not possible)

(C) To direct the respondents to

Firstly, identify all those officers and staff who are guilty of alleged erroneous grant of 2 bonus marks and promotion of the applicant.

Secondly, hold disciplinary enquiry against them on charges of making erroneous grant of 2 bonus marks and promotion of the applicant.

Thirdly, if the charges are proved then punish them at least to the extent the applicant shall have to suffer due to Show Cause Notice dt. 12.4.2013 and only then take action against the applicant.

3. To ward costs in favour of the applicant and
4. To pass any order or orders which this Hon'ble Tribunal may deem just & equitable in the facts & circumstances of the case."

2. Learned counsel for the applicant argued that this issue has been considered by this Tribunal in OA-2757/2008 on 08.09.2009, which was filed three Head Constables, namely, S/Shri Umesh Kumar, Vipin Kumar and Sushil Kumar, who had been promoted as Head Constables through an examination held a year earlier and who were also issued a show cause notice for removing their names from the Promotion List on the same ground. Sh. Singal argued that this case was squarely covered by the aforesaid judgment of the Tribunal dated 08.09.2009, which has also been implemented by the respondents.

3. In their reply, the respondents have submitted that they were only aiming to correct the error that had occurred while granting promotion to the applicant. They submitted that the 02 extra marks awarded to the applicant were meant only for possessing LLB, LLM or MCA whereas the applicant was only MA. Had these 02 marks not

been granted to him, the applicant's name would not have figured in the Promotion List. They have also submitted that this case was distinguishable from OA-2757/2008 relied upon by the applicant because in this case the result of those, who had qualified, was displayed on the INTRADP and the applicant was duty bound to communicate to the respondents that he had been wrongly awarded 02 marks for a simple Postgraduate Degree.

4. We have considered the aforesaid submission. In our opinion, the stand taken by the respondents is totally misplaced. This case is squarely covered by the judgment of this Tribunal in OA-2757/2008, which was allowed following the judgment of this Tribunal in **OA-88/2007** in the matter of HC Durgesh Kumar Vs. UOI decided on 12.09.2007. This judgment was also upheld by Hon'ble High Court of Delhi in WP(C) No. 394/2008 decided on 16.01.2008. In that case also the respondents had submitted that the result had been displayed on INTRADP.

5. Following the judgment of this Tribunal in OA-2757/2008, we allow this O.A. as well and quash and set aside show cause notice dated 12.04.2013. We further direct that the respondents shall let the applicant continue on the promotional post. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/