

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

CP 779/2015 in
OA 3825/2014
MA 33/2016
MA 2655/2016
MA 271/2017

Reserved on: 6.03.2017
Pronounced on: 8.03.2017

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)

SI Devender Kumar
No. 4883-D, PIS No.28891283
S/o Shri Harpal Singh
R/o A-177, Pocket E, LIG Flats
GTB Enclave, Dilshad Garden
Delhi-110093

...Petitioner

(Through : Shri Sourabh Ahuja, Advocate)

Versus

1. Mr. Alok Kumar Verma
Commissioner of Police, Delhi Police,
Police Head Quarters, IP Estate
MSO Building, New Delhi
 2. Mr. R.A. Sanjeev
Deputy Commissioner of Police, Delhi Police,
(Establishment), Police Head Quarters, IP Estate
MSO Building, New Delhi
- ... Respondents

(Through : Ms. Sangeeta Tomar, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant is a Sub Inspector in Delhi Police. He joined as Constable (Executive) on 15.06.1989. He received following

out of turn promotions under Rule 19 (ii) of Delhi Police (Promotion and Confirmation) Rules 1980:

S.No.	Post	Effective Date
1.	Head Constable (Executive)	3.06.2003
2.	Assistant Sub Inspector (Executive)	30.03.2006
3.	Sub Inspector (Executive)	24.07.2007

2. The applicant approached this Tribunal in OA No.3825/2014 being aggrieved by the action of the respondents in not fixing his seniority with effect from December 2007. The OA was allowed with the following directions:

“10. In view of the aforesaid detailed judgements of the Larger Bench of this Tribunal and of the Hon’ble High Court of Delhi, and also in view of the compliance of the said decisions by the respondents, though subject to the result of the SLP, we are of the considered view that the present OA is also liable to be allowed, for parity of reasons. Accordingly, the OA is allowed and the impugned order is set aside, and consequently, the respondents are directed to re-fix the seniority of the applicant in the cadre of Sub-Inspector (Executive) at the bottom of the promotion list for the year 2007 with all consequential benefits, however, subject to the result of the SLP pending before the Hon’ble Apex Court. This exercise shall be completed within three months from the date of receipt of a copy of this order. No order as to costs.”

3. The applicant filed Contempt Petition (CP) No.779/2015 alleging that instead of placing him in Promotion List E-I of Sub Inspectors of the year 2007, the respondents had placed him at the bottom of the promotion list of ASI (Executive), which was notified as S.I. (Executive) in the subsequent year i.e. on

1.10.2008. During the hearing on the CP, the respondents ground was that under Rule 16 (i) of Delhi Police (Promotion and Confirmation) Rules 1980, those ASIs (Executive) whose names exist in Promotion List E-I are sent for training in the Upper School Course after their medical examination and on successful completion of the training, their names are brought on Promotion List E-II for promotion to the rank of Sub Inspector (Executive) as and when vacancies occur. Accordingly, those ASI (Executive) whose names were on Promotion List E-I (Executive) with effect from 14.12.2007 (the DPC for the year 2007-08), were promoted to the rank of SI (Executive) on officiating basis with effect from 1.10.2008 i.e. after completion of their Upper School Course, successfully. The respondents thereafter regularized the applicant also in the rank of S.I. (Executive) with effect from 1.10.2008 i.e. the date when his counterparts were so promoted. The Tribunal held that the respondents have been proceeding on mistaken assumption of the dominance of Rule 16 (i) over Rule 19 (ii) of the Delhi Police Rules whereas as per decision of Full Bench in 2198/2008 etc., Rule 16 (i) has no applicability when Rule 19 (ii) of the aforesaid Rules is in operation. Therefore, this argument of the respondents was rejected but the respondents were given further two months time to implement the order.

4. Respondents approached the Hon'ble High Court in W.P. (C) 217/2017 and this Writ was dismissed. In para 9 of the order, the Hon'ble High Court held that when Rule 19 (ii) applies,

the promotion does not have to wait and there is no need to include the name in either list A or B in the case of Constables, list D-I or D-II in the case of Head Constables and list E-I and E-II in the case of Assistant Sub Inspectors. Those promoted under Rule 19 (ii) acquire the promotional rank immediately.

5. In compliance of the Tribunal's directions, the respondents have passed order dated 2.02.2017, which reads as follows:

"In compliance of Hon'ble CAT, Delhi's order dated 07.08.2015 in OA No.3825/2014 – SI (Exe.) Devender Kumar, No.4883-D (now D-4688) (PIS No.28891283) Vs. GNCT of Delhi & Ors., his seniority is re-fixed in the cadre of Sub-Inspector (Exe.) at Sl. No. 337-A in the Promotion List dated 17.12.2007 for Sub-Inspector (Exe.) for the year 2007 and his adhoc promotion has been regularized in the cadre of Sub-Inspector (Exe.) w.e.f. 01.10.2008 vide this Hdqrs.' Notification endst. No. A/10(4)/2014/5258-67/CB-II/PHQ dated 27.01.2016.

The above order is subject to the outcome of SLP Nos. 11445/2014, 11470/2014, 11471/2014, 11472/2014, 11473/2014, 13309/2014, 16162/2014 and 28443/2014 filed in the Hon'ble Supreme Court of India against the common judgment dated 6.05.2013."

6. Learned counsel for the applicant pointed out that order dated 2.02.2017 is not in compliance of the Tribunal's directions for the reason that the applicant was promoted out of turn with effect from 24.07.2007. Therefore, he had to be put at the bottom of the list of those who have been promoted in 2007. Instead of that, the respondents have put him at the bottom of the list of those promoted in 2008.

7. Learned counsel for the respondents has now filed the complete seniority list of Sub Inspectors as directed by the Tribunal on 3.03.2017. It is their case that since the promotion of the applicant is with effect from 1.10.2010 vide order dated 3.03.2017, he has now been placed at serial number 3597-A between SI Ashok Kumar, who is at serial number 3597 and Shri Mohinder Singh, who is at serial number 3598, both of whom have been appointed with effect from 1.10.2008. It is stated that in E-II list of ASI (Executive), Shri Ashok Kumar was at serial number 305 and below that Shri Balwan Singh was at serial number 306 and Shri Kaptan Singh at serial number 307, both of whom have retired and Shri Mohinder Singh came after the applicant Shri Devender Kumar in the seniority list circulated vide memo dated 20.12.2016.

8. Learned counsel for the applicant stated that since the applicant became SI on 24.07.2007, he should be placed immediately below Shri Tulsi Ram at serial number 2931, who became SI on 10.08.2006 and above Shri Mohan Chand, who became SI on 14.05.2008 as indicated in the seniority list circulated vide memo dated 20.12.2016.

9. We have heard the learned counsel for the parties and gone through the pleadings available on record.

10. On perusal of seniority list of SIs circulated vide memo dated 20.12.2016, it would be seen that those appointed in 2006

end with Tulsi Ram at serial number 2931. At serial number 2932 is the name of Mohan Chand, who was appointed on 14.05.2008 as SI. There is no mention of anyone who got appointed in 2007. However, admittedly the applicant got promoted as SI on 24.07.2007. Therefore, clearly he has to be placed in the seniority list of 2007 and his seniority fixed between Shri Tulsi Ram at serial number 2931 and Shri Mohan Chand at serial number 2932 and not at the bottom of the list between Shri Ashok Kumar and Shri Mohinder Singh in view of order of Hon'ble High Court and Full Bench of the Tribunal cited above.

11. Thus, the order dated 3.03.2017 granting seniority position to the applicant at serial number 3597-A is not in compliance of the Tribunal's order dated 7.08.2015. We, however, grant further one month's time to implement the order in its true letter and spirit, failing which suitable action would be initiated against the respondents.

Post on 7.04.2017.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

/dkm/