

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

O.A.No.3581/2013

Reserved on 15th January 2016

Pronounced on 9th February 2016

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Azam Khan
s/o Mr. S M Khan
r/o H.No.B-34/1, 2nd Floor
Okhla Vihar
Jamia Nagar, New Delhi

..Applicant

(Mr. Ajesh Luthra, Advocate)

Versus

1. GNCT of Delhi
Through Commissioner of Police
Police Headquarters, ITBP Estate
MSO Building, New Delhi
2. Commissioner of Police
Establishment
Police Headquarters, ITBP Estate
MSO Building, New Delhi
3. Lt. Governor of Delhi
Raj Niwas, Sham Nath Marg,
New Delhi

..Respondents

(Mr. B.N.P. Pathak, Advocate)

O R D E R

Mr. A.K. Bhardwaj:

The applicant was appointed in Delhi Police as temporary Sub Inspector (Executive) on 02.09.1996 and remained under probation for two years. While undergoing basic training at the Police Training School, he had an opportunity to participate in 40th National Shooting Championship held

at Chennai from 15.01.1997 to 26.01.1997 and obtained the following positions in the competition:

- | | | | |
|-----|-------------------|---|--------------------------|
| “1. | Clay Pigeon Trap | - | 1 st position |
| 2. | Clay Pigeon Trap | - | 2 nd position |
| 3. | Clay Pigeon Skeet | - | 3 rd position |
| 4. | Clay Pigeon Skeet | - | 1 st position |

He again participated in the 42nd National Shooting Championship Competition held at Chennai from 12.01.1999 to 19.01.1999 and secured 1st position, thus at the strength of the Standing Order No.4 (Annexure A-3), he sought out of turn promotion and made a representation in this regard. In terms of order dated 22.09.2009 (Annexure A-8), the approval of the Lt. Governor, Delhi was conveyed for his out of turn promotion to the post of Sub Inspector (Executive) under Rule 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980. When the matter was reconsidered and the order of out of turn promotion of the applicant was withdrawn in terms of the order dated 08.02.2010 (Annexure A-9), the applicant approached this Tribunal by way of Original Application No.1135/2010, which was dismissed in terms of Order dated 05.04.2011. The Order of the Tribunal was challenged before the Hon'ble High Court of Delhi in Writ Petition (Civil) No.7593/2011 wherein their Lordships passed Order dated 08.03.2013 remitting the matter back to the Commissioner of Police to consider the representation of the applicant for out of turn promotion as an outstanding sportsman afresh in accordance with law. In the wake, the respondents passed the impugned order (pages 20 to 26 of the paper book) with the view that the applicant did not participate in any of the competitions mentioned in Clause 5 of the Standing Order No.4/1989 and participated in the events of National Shooting Championship regarding

which there is no mention in the Standing Order No.4/1989. According to the impugned order, the equivalence of the events/ competitions in which the applicant won the medals was checked with the events/competitions of the National Games and it was found that the only event held as per International Shooting Union (ISU) Rules is equal to National Games and the applicant participated in the National Rule (NR) matches, which are held as per Rules framed by NMRAI to promote shooting amongst grass-root level shooters. The stand of the respondents is that once the applicant has not participated in International Shooting Sports Federation (ISSF) Rule (earlier International Shooting Union (ISU)) in 40th National Shooting Championship Competitions T/S held at Chennai, he is not entitled to the benefit of out of turn promotion. Relevant excerpt of the impugned order reads thus:-

“While considering the eligibility of the SI for out of turn ad-hoc promotion to the rank of Inspector (Exe.) on sports basis, it was found that he did not participate in any of the various events of National Shooting Championship regarding which there is no mention in the Standing Order No.4/1989. However, the equivalency of the events/competitions in which the Petitioner won the medals was checked with the events/competitions of the National Games. In this regard, the opinion received from the Sports Authority of India vide letter No.16(5)/SAI/TW/SH/GEN/99-2000, dated 6.8.1999 and from the National Rifle Association of India letter No.TRG/MISC/99/08, dated 21.5.2008 were also taken into consideration.

The opinion of Sports Authority of India regarding such Shooting Championship/ Competitions held under various categories/rules is quite obvious which states that the only event held as per “International Shooting Union” (ISU) Rules, is equal to National Games. The National Rifle Association of India opined that SI Azam Khan had participated in the NR (National Rule) matches and these matches are conducted as per rules framed by NMRAI to promote shooting amongst grass-root level shooters. He has not participated in ISSF Rule (International Shooting Sports Federation Rule) (earlier ISU International Shooting Union) in 40th Shooting Championship Competitions T/S held at Chennai. The only Gold Medal which the applicant had won under ISSF Rules was a team event which was not won individually.

In view of the above, each achievement of SI (Exe.) Azam Khan, No.D-2104 in sports has been examined to see whether the same is equivalent to the National Games or otherwise. The outcome of the said exercise is shown at Annexure-A.

From a perusal of the material placed at Annexure-A, it is evident that most of the medals or positions that the Petitioner has achieved since 1997 are in competitions held under National Rules and these championships under NR (National Rule) cannot be equated with National Games where shooting competitions are held under ISSF (International Shooting Sports Federation) Rules (earlier ISU International Shooting Union). Therefore, the petitioner is not entitled to get out of turn promotion to the rank of Inspector (Exe.) on sports basis under Rule 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 as his achievements were below the standard prescribed in the Standing Order No.4/1989.”

Thus, the applicant filed the present Original Application praying therein:-

“(i) Quash the impugned order dated 08.04.2013 passed by the respondent no.2 rejecting the representation submitted by the applicant seeking out of turn promotion to the rank of Inspector.

(ii) Direct the respondents to grant out of turn promotion to the applicant to the rank of Inspector with effect from the date a representation to said effect was submitted by the applicant.

(iii) Pass any such other orders as it may deem fit to this Hon’ble Tribunal in the facts and circumstances in the case.”

2. According to Mr. Ajesh Luthra, learned counsel for applicant, in the Standing Order (ibid), it is nowhere specified that a member of Delhi Police will be eligible for out of turn promotion only when he wins gold medal in the National Games held as per ISSF Rule or ISU Rules, thus the stand taken by the respondents that the only event held as per ISU Rules is equal to National Games is baseless. According to him, once admittedly the applicant participated in the National Games held as per National Rule, he cannot be denied the benefit of out of turn promotion.

3. He made a reference to the letter dated 29.10.1999 issued by the National Rifle Association of India to espouse that the National Games and Annual National Championship of Shooting Sports have the equal status and the Government of India also gives the same facility for import of arms and ammunition for the aforementioned two competitions. Finally, he submitted that one ASI Dheerga Pal Singh, who had not won any gold medal in any National Games but won only one gold medal in National Shooting Championship, has been granted the benefit of out of turn promotion. Besides, he reiterated the stand taken by the respondents in the impugned order.

4. We heard the learned counsels for the parties and perused the record.

5. In terms of Rule 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 to encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may, with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Admittedly, the applicant had participated in the 40th National Shooting Championship competitions held at Chennai from 15.01.1997 to 26.01.1997 and the 42nd National Shooting Championship Competition held at Chennai from 12.01.1999 to 19.01.1999. In the letter dated 29.10.1999 (ibid), it has been clarified that the National Games and Annual National Championship of Shooting Sports have the equal status. The letter reads thus:-

“Dear Sir, This has Reference to the Conversation the undersigned had with Brig N.B. Singh regarding the letter received from DCP (Sports). We confirm that the National Games and Annual National Championship of Shooting Sports have the equal status. The Government of India also give the same facility for import of arms and ammunition for the above two competitions.”

6. In paragraph 5 (a) of the Standing Order (ibid), it has been provided that a Sub Inspector will be eligible for promotion to the rank of Inspector, if:-

- (1) He qualifies for the final found in Olympics. Or
- (2) He wins a Medal in the Common Wealth/Asian Games. Or
- (3) He wins Gold Medal in the National Games. Or
- (4) He wins three Gold Medal in All India Police Games.

7. The applicant is claiming the benefit of category 5 (a) (3) of the aforementioned Standing Order, i.e., he has won gold medal in the National Games. However, the respondents have disputed the status of the games in which the applicant participated. According to them, the games were not the National Games. The only reason advanced by them for such stand is that the only event held as per International Shooting Union (ISU) Rules is equivalent to the National Games and since the National Shooting Championship is held as per National Rule to promote grass root level shooters, the same cannot be equated with National Games. It is not the case on behalf of the respondents that there is any other National Championship of Shooting conducted by the National Rifle Association or any other Organization as per the International Shooting Sports Federation (ISSF) Rule (earlier International Shooting Union (ISU)). Could it be so, only then a classification could be drawn between National Shooting Championship and National Game. Once there is only one National Shooting Championship held as per the approved set of Rules, merely because the competition was held as per National Rules, it cannot be said that the same was not a National Game. It is also not the case of the respondents that the National Rifle Association of India is not recognized

for Annual National Championship of Shooting Sports. Besides once the Annual National Championship of Shooting Sports is certified to be an equal to National Games in all respects, merely because the Championship was held as per particular set of Rules not decided by the applicant, he cannot be deprived of the benefits in terms of the provisions of Clause 5 (a) (3) of the order (ibid).

8. As far as the reference to the case of ASI Dheerga Pal Singh made by the applicant is concerned, the criterion for the same is different and there is sufficient substance in the plea raised by the respondents that the case of the applicant cannot be compared with the case of ASI Dheerga Pal Singh.

9. In view of the aforementioned, impugned order is quashed. Original Application is disposed of with direction to the respondents to act upon the order dated 22.09.2009 (Annexure A-8). No costs.

(P.K. Basu)
Member (A)

(A.K. Bhardwaj)
Member (J)

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