

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA NO.4383/2015

Order reserved on 09.08.2016
Order pronounced on 12.08.2016

**HON'BLE SHRI P.K. BASU, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)**

1. Kirori Lal,
Inspector,
Aged about 58 years,
S/o Sh. R.S. Yadav,
R/o No.C-2/145, Raju Park,
Devli, Khanpur, New Delhi.
2. Ram Avtaar,
Inspector,
Aged about 57 years,
S/o Sh. Bhana Ram,
R/o H.No.883, H-Block,
Raj Nagar-II, Palam,
New Delhi.

...Applicants

(By Advocate: Shri M.K. Bhardwaj)

VERSUS

1. The Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. The Joint Secretary (U.T.),
Ministry of Home Affairs,
North Block, New Delhi.
3. The Commissioner of Police,
PHQ, I.P. Estate, New Delhi.
4. Ravinder Kumar,
Inspector (D-1/103)
Complaint Branch, Central District,
Darya Ganj, Delhi.

5. Ramesh Kumar,
Inspector (D-1/104)
Special Staff, South West District,
Dwarka, New Delhi.
6. Bakshi Ram,
Inspector (D-1/1010)
IIIrd Bn, Vikas Puri,
New Delhi.
7. Suresh Pal,
Inspector (D01/1005)
SPUWAC, Nanakpura,
New Delhi.
8. Netrapal,
Inspector (D-1/105)
Security Police Line
Vinay Marg, New Delhi. ...Respondents

(By Advocate: Shri Amit Anand for R-3 and Shri Nilansh Gaur for R-4 to 8)

:ORDER:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

The two applicants in the instant OA, Inspectors in Delhi Police, are aggrieved by the list of Inspectors dated 09.10.2015 (Annexure A-1) prepared for promotion to the post of ACP on look-after-charge basis, contending that the same comprises names of reserved category persons (private respondents nos.4 to 8) who had been junior to them as Sub-Inspectors but were promoted earlier than their promotion as Inspector and placed in the said list ignoring their claim of seniority based on the 'catch-up rule'. No seniority list of Inspectors had, in fact, been

prepared by the official respondents. The applicants have placed reliance on the Hon'ble Supreme Court's judgment dated 27.08.2015 in S. Panneer Selvam and Ors. Vs. Govt. of Tamil Nadu and Ors. [2015 (9) SCALE 350] (Annexure A-5), paragraph 35 whereof is reproduced hereinunder:

"In the absence of any provision for consequential seniority in the rules, the 'catch-up rule' will be applicable and the roster-point reserved category promotees cannot count their seniority in the promoted category from the date of their promotion and the senior general candidates if later reach the promotional level, general candidates will regain their seniority. The Division Bench appears to have proceeded on an erroneous footing that Article 16 (4A) of the Constitution of India automatically gives the consequential seniority in addition to accelerated promotion to the roster-point promotees and the judgment of the Division Bench cannot be sustained."

1.2 The applicants pray that the aforesaid list/eligibility list (Annexure A-1) be directed to be redrawn by first fixing their seniority above the private respondents following the 'catch-up rule' and then incorporating their names therein above the private respondents.

2. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

3. The learned counsel for the respondents submitted that the aforesaid judgment of the Hon'ble Supreme Court (paragraph 35 quoted above) itself holds that the 'catch-up rule' would apply only "in the absence of any provision for consequential seniority in the rules", that rule 10 of the Delhi Police (Promotion and

Confirmation) Rules 1980 lays down that reservations in promotions shall be made in accordance with the rules/orders issued by the Government of India from time to time, and that the DoP&T's OM No.20011/1/2001-Estt.(D) dated 21.01.2002 (Annexure R-2), followed by the respondents, has given a go-by to the 'catch-up rule', paragraph 3 whereof reads as under:

"The Government have now decided to negate the effects of the DOP&T OM dated 30th January, 1997 by amending Article 16(4A) of the Constitution right from the date of its inclusion in the Constitution i.e. 17th June, 1995, with a view to allow the Government servants belonging to SCs/STs to retain the seniority in the case of promotion by virtue of rule of reservation. In other words, the candidates belonging to general/OBC category promoted later will be placed junior to the SC/ST Government servants promoted earlier even though by virtue of the rule of reservation."

4. Significantly, the aforesaid OM dated 21.01.2002 (Annexure R-2) is not a subject matter of challenge in the present OA.

5. We see substance in the aforesaid submissions made on behalf of the respondents and are of the view that the instant OA deserves to fail.

6. The OA is dismissed. The interim order dated 04.12.2015 stands vacated. No order as to costs.

(DR BRAHM AVTAR AGRAWAL)
MEMBER (J)

(P.K. BASU)
MEMBER (A)

/jk/

