

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-2275/2011

New Delhi, this the 04th day of December, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Avinish Tyagi,
S/o late Sh. Janak Prakash Tyagi,
R/o H-32/37, Sec-III,
Rohini, Delhi-110085. ... Applicant

(through Sh. Ajesh Luthra)

Versus

Govt. of NCT of Delhi through
1. The Commissioner of Police,
PHQ, MSO Building,
IP Estate, New Delhi-02.

2. Joint Commissioner of Police,
Head Quarters,
PHQ, MSO Building, IP Estate,
New Delhi-02. ... Respondents

(through Ms. Pratima Gupta for Sh. Amit Anand)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

The applicant is working as a Sub-Inspector in Delhi Police. He became eligible to be considered for promotion to the post of Inspector in the year 2007. However, since

disciplinary proceedings were pending against him, the DPC which met on 30.11.2007, 16.09.2008 and 13.01.2009 considered his case but kept result thereof in a sealed cover. Several Sub-Inspectors, junior to him, were promoted. It is stated that through an order dated 01.05.2009, the disciplinary authority dropped the proceedings that were initiated against him. Thereafter, the DPC met on 14.09.2009 and 19.01.2010 but rated the applicant as unfit for promotion.

2. The applicant made a representation to the respondents alleging that the result of the consideration of his case by the DPC which met in 2007, 2008 and 2009 was not disclosed. Through an order dated 28.02.2011, the respondents informed the applicant that the sealed cover was opened and it was found that the DPC held on 30.11.2007, 16.09.2008 and 13.01.2009 found him unfit for promotion. The same is challenged in this OA.

3. The applicant contends that specific guidelines are framed in the context of considering the cases of Sub-Inspectors by the DPC and they have not been followed in his case by the respective DPCs. He contends that the basis for rejection of his case was the existence of several orders of

censure and none of them were communicated to him. It is also stated that the orders of censure would be in force only for a period of six months and still the orders passed long back were taken into account. Other grounds are also pleaded.

4. The respondents filed counter affidavit opposing the OA. They contend that the DPCs which met for successive years have examined the case of the applicant in detail and on noticing that the applicant was censured on several occasions and was also included in the 'agreed list', they found him unfit for promotion and that the Tribunal cannot act as an Appellate Authority over the views expressed by the DPC.

5. We heard Sh. Ajesh Luthra, learned counsel for the applicant and Ms. Pratima Gupta, learned counsel appearing for the respondents.

6. The communication which is challenged in this OA pertains to the consideration of the case of the applicant to the post of Inspector for the years 2007, 2008 and 2009. Admittedly, he was placed under suspension and disciplinary action was pending during that period and accordingly sealed cover procedure was adopted. The

occasion to open the sealed cover arose on account of the fact that order favourable to the applicant was passed by disciplinary authority on 01.05.2009. The sealed cover was opened and it was found that all the DPCs for the years 2007, 2008 and 2009 found the applicant unfit. It is a matter of record that there exist guidelines to be followed by the DPCs for considering the case of officer's promotion. In the counter affidavit, a detailed account is furnished as to the factors that were taken into consideration, by the respective DPCs. List of punishments and proceedings that have been initiated against the applicant for the respective years were also furnished, in a tabular form. This Tribunal cannot sit as an Appellate Authority for the views expressed by the DPC. It is only when a serious irregularity or a mistake of facts has crept into such proceedings, that a possibility may exist for the Tribunal to interfere.

7. The respondents have placed before us, copies of various orders of punishments that have been passed against the applicant from time to time. As long as those orders remain in force, the effect thereof cannot be wiped off, nor can they be ignored. Though the applicant pleaded that the orders of punishment were not furnished to him at relevant point of time, at least when he was served with them he did

not choose to challenge them. The respondents plead that they were served long back.

8. We, therefore, do not find any reason to interfere with the impugned order. The OA is dismissed. We make it clear that if the applicant intends to challenge the orders of punishment, it shall be open to him to do so in accordance with law. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/