CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A No.3330/2018

Reserved On:06.09.2018
Pronounced on:11.09.2018

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

Raj Kumar C Malik
Head Constable, Age 40,
Belt No.165/N,
PIS No.28980551
PS Lahori Gate,
Delhi-110 006.
Group 'C'.   ...Applicant

(By Advocate: Shri Manish Paliwal with Shri Ashutosh Sharma,
            Abhishek Kumar and Shri Vikas Kumar)

Versus

1.   Delhi Police,
      Through its Commissioner of Police,
      Police Headquarter,
      I.P. Estate,
      New Delhi,

2.   Government of NCT of Delhi,
      Through the Commissioner of Department of
      Excise,
      Entt. & Luxury Taxes,
      L-Block, Vikas Bhawan, I.P. Estate,
      New Delhi-110002.   ...Respondents

(By Advocate: Ms. Harvinder Oberoi)

ORDER

By Mr. V. Ajay Kumar, Member (J)

The applicant, a Head Constable in the respondent-Delhi

Police, filed the OA aggrieved by the action of the respondents in not

forwarding his name to participate in the selection process for

selection as Head Constable in the Excise Department of Government of NCT of Delhi, on deputation basis.

2. It is submitted that the applicant is fully qualified and eligible and sufficiently senior in the category of Head Constable of the respondent-Delhi Police for being forwarded his name for deputation, as Head Constable in the Excise Department of Government of NCTD, but the respondent-Delhi Police, rejected his request on the ground that he is on the verge of promotion to the next post of ASI in the next 2 years.

3. Heard Shri Manish Paliwal with Shri Ashutosh Sharma, Abhishek Kumar and Shri Vikas Kumar, learned counsel for the applicant and Ms. Harvinder Oberoi, learned counsel for the respondents on receipt of advance notice and perused the pleadings on record.

4. Shri Manish Paliwal, learned counsel for the applicant submits that though the applicant is eligible for promotion to the next post of ASI under the respondents, but the same is dependent on the availability of sufficient number of vacancies. As on date, there is no guarantee that the applicant will definitely get the opportunity of consideration of his case for promotion as ASI within the next 2 years. Hence, not allowing him to opt to go on deputation to the Excise Department is illegal and arbitrary.

5. On the other hand, Ms. Harvinder Oberoi, learned counsel for the respondents submits that no senior of the applicant was

allowed to opt for the deputation as all of them were also on the verge of promotion in the next 2 years. The learned counsel further submits that going on deputation is not a right of any employee. Further, the applicant as Head Constable in Delhi Police is already drawing the same pay scale of the post of Head Constable in the Excise Department, which also carries the same pay scale. Hence, he is also not losing any monetary benefits by not allowing him to opt for deputation.

6. It is not in dispute that the respondents while forwarding the names for deputation to the post of Head Constable in the Excise Department, have uniformly followed the eligibility/criteria in which that "the candidate should not be on the verge of promotion in the next 2 years", is one condition. It is also not the case of the applicant that any of his seniors, who are also on the verge of promotion in the next 2 years, are allowed to participate in the selection process to go on deputation. The applicant has also not challenged the said condition. He is also not losing monetarily, as he is already drawing the same pay scale. As rightly pointed out by the learned counsel for the respondents that deputation is not a right of any employee and as long as the applicant failed to prove any arbitrariness in the action of the respondents or violation of any specific rule, no interference of this Tribunal is warranted.

7.   In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and accordingly the same is dismissed. No costs.

(A.K. BISHNOI)   **(V. AJAY KUMAR)**
MEMBER (A)   **MEMBER (J)**

RKS