

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

**MA No. 1635/2019
OA No. 666/2019**

New Delhi this the day of 10th May , 2019

**Hon'ble Sh. Pradeep Kumar, Member (A)
Hon'ble Sh. Ashish Kalia, Member (J)**

ASI(Exe.) Anand Pal Singh,
PIS No. 28823266

S/o late Sh. Mahipal Singh,
R/o A-7, Himgiri Enclave,
Sant Nagar, Burari, Delhi.
Presently posted at:-
Ashok Vihar Traffic Circle,
Group 'C', aged -57 years.

... Applicant

(through Sh. Sourabh Ahuja)

Versus

1. GNCT of Delhi,
Through Commissioner of Police (Delhi Police)
Police Head Quarters, IP Estate,
MSO Building, New Delhi.
2. Deputy Commissioner of Police,
(Establishment), PHQ, IP Estate,
MSO Building, New Delhi.

(By Advocate : Sh. Ravinder Aggarwal)

ORDER (ORAL)

Sh. Ashish Kalia, Member(J)

The applicant was initially appointed in the year 1988 as Constable (Executive) in Delhi Police. He has been absorbed in 04.08.1992. He was promoted on out of turn basis to the rank of Head Constable (Executive) purely on temporary and adhoc basis under Rule 19 (ii) of Delhi Police (Promotion &

Confirmation) Rules, 1980 on 11.02.1998. He is seeking seniority from the date of his promotion of Head Constable (Executive) whereas the department has taken a stand that he will have no claim for seniority from this date. Seniority will be given w.e.f. the date training is completed successfully. However, learned counsel for the applicant has drawn our attention to the Full Bench's judgment of this Tribunal in the case of **Abdul Nazeer Kunju vs. Union of India** decided on on 24 March, 2011. The operative part of the judgement reads as under:-

“12. Before we part with this order, we make it clear that we have not considered the issue regarding the mandatory requirement of preparing the Promotion Lists every year, as was argued by the learned counsel for the Applicant in Abdul Nazeer Kunju. In that case Promotion List A for the year 1995 was not prepared. The applicant was not sent for training course after promotion in 1995 but only later in the year 1999. We have not expressed any opinion on these matters and it would be for the Division Bench to decide the same. The purport of our decision is that an official promoted out of turn in any year would be placed at the bottom of the Promotion List of that particular year in which he was promoted out of turn.”

2. This matter was challenged before Hon'ble High Court and Hon'ble High Court has dismissed the writ petition affirming the view taken by the Tribunal in the impugned decision and thereafter the matter is pending before Hon'ble Supreme Court for adjudication.

3. On 16.4.2014, two orders were issued by Commissioner of Police whereby the promotion on out of turn basis were given subject to SLP pending before Hon'ble Supreme Court vide SLP No. 11470/2014. However, learned counsel submitted that his representation was kept pending till the decision of SLP.

4. In view of this, the applicant may also be considered for grant of seniority from the date of promotion to the post i.e. 13.02.1998. The applicant may be considered for placing his name in the bottom of seniority list of 1998. This order is subject to the outcome of the SLP pending before the Hon'ble Supreme Court. OA is disposed off.

5. In view of the above decision, MA is also disposed off.

(Ashish Kalia)
Member (J)

sarita

(Pradeep Kumar)
Member (A)