

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.Nos.940 & 3023 of 2003

Wednesday, this the 14th day of July, 2004

Hon'ble Shri Justice V. S. Aggarwal, Chairman  
Hon'ble Shri S. K. Naik, Member (A)

OA-940/2003

Asha Rani  
working as Sub-Inspector/Input-Output  
Delhi Police. Head Quarters  
New Delhi

...Applicant

(By Advocate: Shri D.S.Mahendru)

Versus

National Capital Territory of Delhi  
through

1. The Secretary Govt. of India  
Ministry of Home (NCTD)  
IP Estate, Near Indoor Stadium  
New Delhi
2. The Commissioner of Police  
Police HQ, Delhi Police HQ  
Delhi Police, MSO Building  
ITO, New Delhi
3. The Special Commissioner of Police (Admn.)  
Police HQ, Delhi Police  
MSO Building, ITO, New Delhi
4. Surrender Kumar Bhugra,  
s/o Late Shri K.R.Bhugra, Sub Inspector  
(No.D-140) Research Cell,  
Crime & Railways, MSO Building  
Police HQ
5. Om Prakash Srivastava  
s/o Late Shri Srikishan Srivastava  
Sub Inspector No.D-118  
Computer Centre (R&D), Teen Murti Traffic  
Lines, Willington Crescent Road  
New Delhi  
r/o Qtr.No.3, Type III, PS Preet Vihar  
Delhi

...Respondents

(By Advocates: Shri Ajesh Luthra for respondents 1 - 3 &  
Shri A.K.Bhardwaj for respondents 4 - 5 )

OA-3023/2003

1. Suresh Kumar  
Inspector, Computer Centre (RND)  
Teen Murti Traffic Lines  
Willington Crescent Road  
New Delhi

(2)

2. Haridarshan  
Inspector  
Licensing Branch  
Police Station Defence Colony  
New Delhi

...Applicants

(By Advocate: Shri H.S.Dahiya)

Versus

1. Union of India & others  
through its Secretary  
Ministry of Home Affairs  
North Block, New Delhi
2. The Commissioner of Police  
Police HQ, Delhi Police  
MSO Building  
ITO, New Delhi
3. Surender Kumar Bhugra,  
s/o Late Shri K.R.Bhugra, Inspector  
Research Cell,  
Crime & Railways, MSO Building  
Police HQ
4. Om Prakash Srivastava  
s/o Late Shri Srikishan Srivastava  
Inspector  
Computer Centre (R&D), Teen Murti Traffic  
Lines, Willington Crescent Road  
New Delhi  
r/o Qtr.No.3, Type III, PS Preet Vihar  
Delhi

...Respondents

(By Advocates: Shri Ajesh Luthra for respondents 1 - 2 &  
Shri A.K.Bhardwaj for respondents 3 - 4 )

O R D E R (ORAL)

Justice V. S. Aggarwal:

By this common order, we propose to dispose of the two OAs (OA-940/2003 and OA-3023/2003). After hearing the parties' learned counsel, we find that it would be unnecessary for us to re-state all the facts conjolled from the pleadings of the parties. The reasons for so stating are that the learned counsel for applicants while making the submissions stated that the impugned order has been passed ignoring the principles of natural justice and without recording reasons.

LSAg

(3)

2. On an earlier occasion, Shri Surender Kumar Bhugra and Shri Om Prakash Srivastava, the private respondents in the present OAs had filed OA-2504/2002. It was disposed of by this Tribunal on 24.9..2002. The operative part of the order reads:-

"3. At this stage when seniority of the applicants has not been drawn and they themselves from the date of their absorption in Delhi had not raised their little finger claiming seniority, we deem it appropriate to dispose of the present application directing respondent no.2 to decide the seniority of the applicants preferably within two months from the receipt of the certified copy of this order. If any promotion to the posts of Inspector in the R&D and Crime is made, that should be subject to the seniority of the applicants that may be fixed but nothing said herein should be taken as restraining the respondents from making promotions."

3. It appears that in pursuance of the said decision of this Tribunal, the official respondents passed an order determining the inter-se-seniority of the deputationists dated 25.1.2003 which reads:-

"ORDER

In pursuance of order dated 24.9.2002, passed by the Hon'ble C.A.T., New Delhi in O.A.No.2504/2002, M.A.No. 2123/2002 Surender Kumar Bhugra & Ors. Vs. Govt. of NCT of Delhi & ors., the inter-se seniority of the following deputationists in the rank of ASI (D.E.O.) in Delhi Police is hereby re-fixed w.e.f. 17.9.1987 i.e. from the date of their deputation in Delhi Police:-

Sl.No. Rank Name & No.

1. ASI (DEO) Surender Kumar Bhugra  
No.2056/D (now SI (Input/Output  
Asstt.) No.D/118 (PIS No.2870005)
2. ASI (DEO) Om Prakash Srivastava  
No.2059/D (now SI Input/Output  
Asst) No.D/118 (PIS No.24870004)

*As Ag e*

(4)

This Hqdrs. Order No. 7565-85/  
R. Cell/PHQ, dated 8.11.1992,  
regarding fixation of inter-se-  
seniority in respect of the above  
ASI (D.E.O.) in Delhi Police is  
hereby cancelled.

POLICE

DY. COMMISSIONER OF  
HDQRS. (ESTT.) DELHI"

Admittedly, while doing so and passing the said order, no  
notice to show cause has been given to the applicants.

4. The principles of natural justice, particularly  
the principle of 'audi alteram partem' has made a deep in-  
~~roads~~ <sup>roots</sup> into our jurisprudence. When the civil rights of  
the other party <sup>are</sup> affected, in normal circumstances, a  
notice to show cause is required to be given and  
thereafter the speaking orders are required to be passed  
to communicate the reasons for doing so. In the present  
cases, unfortunately, this has not been done.

5. Learned counsel for official respondents pointed  
that in the peculiar facts when the matter is before this  
Tribunal, notice to show cause need not be issued and it  
can be decided as such. Reference was also made to the  
decision of the Supreme Court in S.I. Roop Lal & another  
v. Lt. Governor through Chief Secretary, Delhi & others,  
(2000) 1 SCC 644 to contend that in accordance with this  
judgment, the seniority could well be determined.

6. We hasten to add that we do not intend to express  
ourselves on the merits of the matter. Every case has its  
own merits. The present cases do not fall in the  
exception that giving of the show cause notice would be a

LSA

(5)

useless formality and, therefore, the said principle cannot be attracted herein.

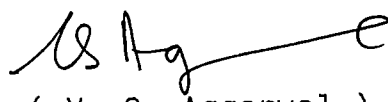
7. In addition to that, reading of the impugned order, copy of which is Annexure A-1, shows that it does not give any reasons. Even when the applicants represented the respondents, their representation was rejected without recording any reasons. All these factors prompt us to conclude that it was in the fitness of things that a notice to show cause should have been given and thereafter an order in accordance with law can be passed determining the seniority giving reasons in this regard.

8. Resultantly, the present OAs are allowed. We quash the impugned order at Annexure A-1 and direct:-

- a) after giving a notice to show cause, the seniority of the parties to the petitions or affected persons can be determined,
- b) we are informed that the private respondents had since been promoted as Inspectors, it is directed that till the decision referred to above in para (a) is determined, they shall not be reverted; and
- c) the exercise in this regard should be completed within four months from today.

  
( S. K. Naik )  
Member (A)

/sunil/

  
( V. S. Aggarwal )  
Chairman