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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A.NO.979/2003

Monday, this the 15th day of December, 2003

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

Head Constable Jagat Singh,
No.158/Sec.
s/o Shri Bhagvan Dass,
R/o Village - Hamid Pur,
P.S.Alipur, Delhi-36.

..Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police,
Headquarters,
Police Headquarters, I.P.Estate,
M.S.O.Building, New Delhi.
3. Commissioner of Police, Delhi
Police Headquarters, I.P.Estate,
M.S.O.Building, New Delhi. ..Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

The applicant is a Head Constable in Delhi Police. He was promoted on 29.1.87. On 11.10.95, a departmental inquiry was ordered against the applicant. Vide order of this Tribunal in OA 1565/1996 passed on 11.10.96, the departmental inquiry was kept in abeyance till the conclusion of the criminal case. The Departmental Promotion Committee meeting took place on 13.11.2001. The applicant was denied promotion to list D-1 (Executive) due to indifferent service record.

2. By virtue of the present application, it is claimed that the order whereby the claim of the applicant was

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ignored (Annexure A-1) should be set aside and applicant should be promoted to list D-1 (Executive) from 12.11.2001 with all consequential benefits.

3. The above said relief of the applicant is being claimed ~~asserting~~ ^{asserting} that the name of the applicant was removed from the secret list to agreed list from 4.8.2000 and therefore, the applicant could not have been denied the said promotion.

4. The petition has been contested but the basic facts are not in dispute. However, the learned counsel for respondents defended the order that was passed and further urged that because of the pending departmental action the claim of the applicant could not be considered which we have already stated above. The said departmental action is kept in abeyance. He further urges that the Review DPC in this case even would not be called for.

4. In so far as basic facts are not in dispute, we only need to refer to the order of 3.1.2002. It reads:

With the approval of DPC/Vigilance, Delhi the name of HC Jagat Singh, No.158/Sec has been transferred from Secret List to Agreed List of officers/person of Doubtful integrity w.e.f.4.8.2000 and further extended w.e.f.4.8.2001 for a period of one year and will be reviewed on 4.8.2002 or on finalization of DE/Criminal Case pending against him whichever is earlier vide his office order No.12197-98/Vig.C.A., dated 27.12.2001.

5. Perusal of the same shows clearly that the name of the applicant had been removed from the Secret List of persons of Doubtful Integrity w.e.f. 4.8.2000. Once the

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name of the applicant has been removed from the list of persons of doubtful integrity (Secret List), necessarily, in all fairness, his name should have been considered in the Departmental Promotion Committee meeting which took place on 12.1.2001.

6. In the present case, it appears that this fact was not in existence because the order is of 3.1.2002. Obviously, it could not be brought to the notice of the Departmental Promotion Committee, but we also cannot ignore the fact that the order has been passed giving benefit, which we have referred to above, i.e., removal of his name from the list of persons of Doubtful Integrity w.e.f. 4.8.2000. Thus, deeming that this order was not in existence and once his name is not in the Secret List of persons of Doubtful Integrity, necessarily it would be a fit case, in all fairness, where the Review DPC should be held.

7. So far as the departmental proceedings against the applicant are concerned, the Tribunal had already directed vide order dated 11.10.1996 that it should be kept in abeyance till the conclusion of the criminal case. We are adjudicating upon this controversy and this fact cannot be ignored in accordance with law. For this reason, we dispose of the present application with the following directions:

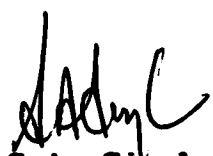
- a) the Review DPC taking stock of the order of 2.1.2003 should be held;
- b) claim of the applicant thereupon

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should be considered in accordance
with law; and

- c) in case, if found fit, necessary
consequential benefits should be
given to the applicant.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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