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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1184/2003

New Delhi, this the 14th day of July, 2004

Hon'ble Mr. Sarweshwar Jha, Member (A)

Shri S.K. Vachani
S/o Shri Khub Chand Vachani
R/o Quarter No.22, H.C. Old Type
Police Station Mandir Marg,
New Delhi – 110 001.

(By Advocate Shri D.S. Mahendru)

...Applicant

Versus

1. Lt. Governor of Delhi
Raj Niwas, Raj Niwas Marg,
Delhi.
2. Commissioner of Police
Police Headquarter
I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police
Crime and Railways,
Police Headquarters,
New Delhi.

(By Advocate Shri S.Q. Qazim)

...Respondents.

ORDER (ORAL)

This application has been filed seeking quashing and setting aside the impugned adverse ACRs in respect of the applicant for the years 1980-81, 1981-82, 1982-83 and 1983-84.

2. The applicant joined Delhi Police as a direct recruit as Key Punch Operator w.e.f 19.01.1974 and was confirmed in the said post w.e.f 20.01.1977. The next post for promotion of the applicant is that of Sub-Inspector / Input-Output Assistant. He had thus put in fifteen years of regular service as Key Punch Operator when the DPC was convened in 1989 for considering promotion of suitable officers for promotion to the post of Sub-Inspector / Input-Output

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Assistant. The grievance of the applicant is that he was not recommended for promotion to the said post, not giving proper and valid consideration to his ACRs. He has admitted that adverse remarks were conveyed to him in respect of his ACRs for the years 1980-81, 1981-82, 1982-83 and 1983-84 only in the year 1987, much later than the stipulated period provided under the Rules. According to him, not promoting him to the post of Sub-Inspector / Input-Output Assistant on the basis of the ACRs for the above mentioned period is thus not legally valid. He did make representations against communication of the adverse remarks (Annexures A-2 and A-3), but it is not clear whether he received any reply to the said representations.

3. There is a reference to his having filed earlier an OA 588/1994 seeking directions being given to the respondents to consider him for promotion to the post of Sub-Inspector / Input-Output Assistant from the due date and the OA having been disposed of on 23.04.1997 with a direction to the respondents to hold a Review DPC as on 12.11.1990 and to consider the case of the applicant for promotion to the post of Sub-Inspector / Input-Output Assistant along with any other candidate who might have become eligible on that date (Annexure A-4). The respondents vide their impugned order dated 19.06.1997 (Annexure A-5) have conveyed to the applicant that Departmental Promotion Committee to consider the applicant for promotion to the post of Sub-Inspector / Input-Output Assistant w.e.f. 12.11.1990 met on 10.06.1997 and evaluated his service record and ACRs for the last 12 years from 1978-79 to 1989-90 in accordance with Rule 12-b of Delhi Police (Appointment & Recruitment) (Amendment) Rules 1989 and DPC Guidelines issued by the Government of India vide their OM dated 10.04.1989 and, after careful evaluation, DPC found that the applicant did not come up to the required merit and, therefore, was not recommended for empanelment to Promotion List 'E'(Tech.) for the post of Sub-Inspector / Input-



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Output Assistant. The applicant seems to be aggrieved by the said order for the simple reason that, according to him, there was no material on the basis of which the DPC could have reached the conclusion regarding the unfitness of the applicant being promoted to the said post. He has reiterated some of the things earlier submitted by him and have alleged that adverse ACRs communicated by the respondents are bad in law and against the principles of natural justice and the same are fit to be quashed and set aside.

4. The respondents have confirmed most of the things in regard to the dates of the meeting of the DPC and consideration of the applicant for promotion to the post of Sub-Inspector / Input-Output Assistant. However, it is observed from the reply that the Review DPC did not consider the case of the applicant for the reason that in their opinion DPC cannot be held for one person and that at least three candidates be considered and such eligible candidates were not available. Resultantly, the DPC did not meet and necessary information in this regard was conveyed to the applicant. A regular DPC did meet on 23.06.1992 and examined the services of three ASIs (Data Entry Operators) including the petitioner, but it did not find them fit for consideration, as none of them had completed six years of service as ASI(Data Entry Operator) and also that they did not hold status of Key Punch Operator on the day of holding the DPC. As the eligible candidates were not available to the rank of Sub-Inspector / Input-Output Assistant, they were considered for adhoc promotion to the said posts and the applicant together with other candidates were promoted to the said post on adhoc basis with a clear direction that they will have no claim for regular appointment and seniority to the post of Sub-Inspector / Input-Output Assistant. Being not satisfied with the said promotion, the applicant filed OA 588/1994. It was in December, 1995 that the applicant was considered for regular promotion to the post of Sub-Inspector / Input-Output Assistant in accordance with the relevant rules, and after evaluation

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of his service record as well as his ACRs in the rank of ASI (DEO), he was recommended for empanelment for promotion to Promotion List 'E'(Tech.) w.e.f. 27.12.1995 and was promoted to the said rank w.e.f. 28.12.1995. The said OA was therefore disposed of by the Hon'ble Tribunal on 23.4.1997.

5. Being not satisfied with the outcome of the DPC and the decision of the Department thereafter, the applicant filed another OA 2940/1997, which was, however, dismissed on 4.2.1999. He followed it up with another OA i.e. 2359/2001 seeking expunction and quashing of the adverse remarks in the said years and the same was also dismissed at the admission stage itself, being hopelessly barred by limitation. The respondents have, therefore, argued that the same facts have been brought up by the applicant time and again and therefore this OA is not maintainable and deserves to be rejected.

6. While the applicant has tried to dispute the contentions of the respondents by filing rejoinder in which he has reiterated most of the facts, I find that he has not covered any new ground. I have given a careful consideration to the submissions made by both the sides and I find that the applicant has approached this Tribunal a number of times on the same subject and the Tribunal has given directions to the respondents to consider him by holding DPC / Review DPC for promotion to the post of Sub-Inspector / Input-Output Assistant as per the relevant rules and further that the respondents have complied with the orders of the Tribunal by convening meetings of the DPC. Finally, the DPC have recommended him for empanelment for promotion to the rank of Sub-Inspector / Input-Output Assistant w.e.f. 28.12.1995 after reverting him to his substantive rank of ASI (DEO). The question of quashing / setting aside the remarks, as pursued by the applicant through different OAs does not seem to be validly placed, as he filed representation against the same and thereafter he was granted adhoc promotion and subsequently regular promotion and as a result of

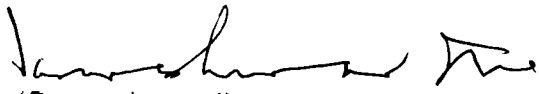
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which the respondents did not consider it necessary to consider his representation. It is not appreciated that the applicant should press for expunction of adverse remarks in the ACRs for the relevant years again and again when the matter has already been considered by the Tribunal and decisions have been given. It is also not relevant to consider this matter all over again when the prayer regarding promotion of the applicant to the post of Sub-Inspector / Input-Output Assistant has already been granted by promoting him to the said post in the year in which he was found eligible as well as suitable based on his service record / ACRs. Under these circumstances, there is hardly any merit left in the case. Even otherwise in any case promotion / appointment cannot be claimed by an employee as a matter of right for which DPC has to meet and promotion given as per the Rules and as per the recommendations of the duly constituted DPCs.

7. Having regard to the above and to the facts and submissions made by applicant as well as the respondents and their respective learned counsel, and finding no merit in the OA, the same is dismissed, with no order to costs.


(Sarweshwar Jha)
Member (A)

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