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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1515/2003

New Delhi, dated this the 12th day of January, 2004

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

HC Yudhbir Singh 4196/DAP
S/o Shri Dalel Singh
D-1, New Police Line
Delhi.

...Applicant

(By Advocate: Shri Sachin Chauhan)

versus

1. Union of India
Through its Secretary
Ministry of Home Affairs
North Block, New Delhi.
2. Lt. Governor of Delhi
5 Sham Nath Marg
Delhi.
3. Commissioner of Police,
Police Headquarters,
IP Estate,
M.S.O. Building
New Delhi
4. Joint Commissioner of Police.
(Establishment) Police Headquarters,
IP Estate,
M.S.O. Building
New Delhi.

... Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER

Justice V.S. Aggarwal:-

The Delhi Police (Promotion and Confirmation) Rules, 1980 (for short, "the Rules") have been framed in exercise of the powers conferred by sub-section (1) of Section 147 of the Delhi Police Act. They prescribe the mode of promotion from one rank to the other. Sub-rule

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(i) to Rule 19 of the Rules deals with ad hoc promotion that can be effected by the Commissioner of Police without any right for regular appointment. However, sub-rule (ii) has further been enacted to encourage the outstanding sportsmen, marksmen and officers who have shown exceptional gallantry and devotion to duty. They can be promoted by the Commissioner of Police with prior approval of the Administrator. The said rule reads:-

"19. Ad-hoc promotions- (ii) To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may, with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Such promotions shall not exceed 5 per cent of the vacancies likely to fall vacant in the given year in the rank. Such promotions shall be treated as ad-hoc and will be regularised when the persons so promoted have successfully completed the training course prescribed like (Lower School Course), if any. For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year."

The exceptions are that promotions cannot be made exceeding 5 per cent of the vacancies likely to fall vacant in a given year. They have to be on ad hoc basis and they can only be regularised on successful completion of the training course prescribed. For the purpose of seniority, the promotees have to be placed at the bottom of the promotion list.

2. It is this rule, which is being pressed into service by the applicant.

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3. The applicant is a Head Constable in Delhi Police. He was promoted as such on 2.10.2000. He participated in the Net Ball Championship in the year 2001 held at Amritsar, Punjab and had secured third position. He claims that he was further selected for Delhi State team for playing in the National games held at Anandpur Sahib, Punjab. In pursuance of sub rule (ii) to Rule 19 of the Rules, the applicant wants that he should be promoted out of turn because of his performance, but his just claim has been denied. The claim of the applicant is said to have been denied because of para 4 of the Standing Order No.4 of the year 1989. The applicant prays that the said para 4 of the standing order is contrary to sub rule (ii) to Rule 19 of the Rules and further that a direction should be issued to hold a review Screening Committee to consider his claim for out of turn promotion.

4. The application has been contested. The respondents plead that the applicant was recruited on sports basis in the discipline of Basketball. He was promoted as Head Constable on 23.10.2000. A request was received on 8.5.2001 from Delhi Net Ball Association that the applicant alongwith others may be allowed to join the coaching camp to prepare Delhi Police Net Ball team for men to be held at Amritsar. The Delhi Police did not have a Net Ball team. Accordingly, the Association was informed that it was not possible to allow the applicant and others to participate in the Championship. However,

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it was made clear that if the players wanted to participate in the Net Ball Championship, they could get their leave sanctioned. The applicant and others had been permitted to participate in the Championship. The team won the Championship and secured Silver Medal in the Net Ball team event. As per sub rule (ii) to Rule 19 of the Rules, to encourage sportsmen out of turn promotion has been prescribed. But as per the standing order para 4, the Net Ball game is not a game mentioned in the sports discipline for which a person can be considered for out of turn promotion. It is denied that the said para 4 is contrary to sub rule (ii) to Rule 19 of the Rules.

5. The learned counsel for the applicant contended that sub rule (ii) to Rule 19 of the Rules only refers to outstanding sportsmen and, therefore, it is not permissible for the respondents to state that some of the disciplines can be considered for out of turn promotion in sports. He further asserted that para 4 is contrary to sub rule (ii) to Rule 19 and all games and sports should be treated alike.

6. Sub rule (ii) to Rule 19 of the Rules is an enabling provision. We have already referred to above, the purpose for providing such a provision in the Rules for out of turn promotion. It is to encourage outstanding sportsmen. Since it is an enabling

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provision, it necessarily can be supplemented by instructions (see Paluru Ramkrishnaiah and others vs. Union of India and another, (1989) 2 Supreme Court Cases 541). The expression "outstanding sportsmen" by itself unless explained would be vague, indefinite and obscure. If it was not explained as to against which sports discipline a sportsman would be considered, any person might claim himself to be an outstanding sportsman. Necessarily the instructions were required to be issued.

7. Standing Order No.4 of 1989 clearly prescribes as under:-

"3. RECRUITMENT PROCEDURE

These sportsmen will be recruited after their performance trial by a committee consisting of Sports Officer (DOP/IV Bn.DAP) DCP/Incharge of concerned Sports and concerned Coach. After their trial they will be interviewed by a Screening Committee consisting of Addl.CP(A.P.), Delhi, Sports Officers (DCP/IV Bn.DAP.) and DCP/Ist Bn.DAP. for judging their suitability. On the recommendation of Screening Committee their cases will be put-up to Commissioner of Police for approval. After Commissioner of Police approval, their cases will be recommended to Delhi Administration for appointment. Once these Sportsmen are recruited they will put through regular training. After training they will be attached to Bn. which is looking after the particular Sports activities with a view to improve their performance and contribute their might to the Sports activities of Delhi Police.

4. QUALIFICATION OF RECRUITMENT TO VARIOUS POSTS

(I) Following are the Sportsmen who will be considered for recruitment and trial for

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various posts:-

- 1) ATHELETICS (MEN/WOMEN)
- 2) BASKETBALL
- 3) FOOTBALL
- 4) HOCKEY
- 5) JUDO (MEN/WOMEN)
- 6) KABADDI
- 7) SHOOTING (MEN/WOMEN)
- 8) SWIMMING
- 9) VOLLEY BALL
- 10) WRESTLING.

The above sports include both individual as well as team events. Other conditions in respect of qualifications height, chest etc. will remain the same as applicable to general category recruitment for various posts. If, however, any relaxation in the prescribed standard are needed, these shall be specified while forwarding the Board proceeding for consideration and approval of the competent authority.

(II) FOR SIs/ASIs (WOMEN)

- (a) Sportsmen who have secured Ist to VIth position in Olympic, Commonwealth/Asian Games and SAE Games within last two years when they submit application.
- (b) Sportsmen who have secured Ist to IIIrd position in the National Games twice within last two years when they submit application.

(III) FOR HCs (MIN.)/CONSTS.

- (a) Sportsmen who have secured Ist or IInd position in the State/University level championship in last two years when they submit application.
- (b) If he/she sets the record of All India Police Games Ist or IInd position in individual events during the trial."

It defines the events which in different sports are recognised. The Net ball is not one of those sports recognised. In fact, the sequence of events further shows that even permission was not granted to the applicant to take part in the said event because Delhi

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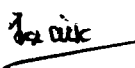


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Police does not have such a team. The applicant and others were permitted to take part in the event after taking necessary leave. The applicant took leave which was sanctioned. When Delhi Police did not have such a team, resultantly it must be held that the outstanding sportsmen have not been considered for purposes of out of turn promotion pertaining to such discipline in sports.

8. We find nothing illegal in the said paragraph merely because Net ball is not included as one of the games therein. There can always be reasonable classification. The classification has been made and certain sports have been picked. Those persons who have outstanding performance in those sports can be considered for out of turn promotion rather than all and everybody. There is nothing arbitrary in this regard. There is no oblique motive. It is applicable to all. Therefore, we find that the pleas of the applicant in this regard are without merit.

9. For these reasons, the present Original Application being without merit must fail and is dismissed. No costs.


(S.K. Naik)
Member (A)

/sns/


(V.S. Aggarwal)
Chairman