

Central Administrative Tribunal, Principal Bench

O.A.No.1823 of 2003

New Delhi, this the 27th day of February, 2004

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

Constable Hawa Singh No.10803/DAP
R/o D-131, M.C.D. Colony,
New Usman Pur,
Delhi

....Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Govt. of N.C.T.D.
Through its Secretary,
Sachivalaya, I.P. Estate,
New Delhi
2. Commissioner of Police,
Delhi,
I.P. Estate, M.S.O. Building,
New Delhi.
3. Dy. Commissioner of Police,
9th Bn, D.A.P.
Pitam Pura Police Lines,
Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant had filed O.A.978/2001. He had challenged the orders passed by the disciplinary and the appellate authority dismissing him from service. This Tribunal on 6.2.2002 had quashed the said orders. The respondents were directed to reinstate the applicant in service with consequential benefits as per the rules within three months.

2. In pursuance of the directions of this Tribunal, on 10.4.2002 the respondents had passed the following

18 Ag

order:

"In pursuance of judgement passed by Hon'ble Central Administrative Tribunal, Principal Bench announced on 6.2.2002 in O.A.No.978/2001 - Ex. Const. Hawa Singh Vs. UOI & Others and DCP/Vigilance Delhi's memo No.3001/P.Cell/Vig.(P-V) dated 14.3.2002, this office order No.22851-930/HAP(P-II)/PCR dated 5.11.98 vide which punishment of dismissal awarded to Ex. Const. Hawa Singh No.2126/PCR and order dated 14.9.99 passed by the appellate authority regarding rejection of appeal are hereby quashed and set aside. Const. Hawa Singh No.2126/PCR is hereby re-instated in service with immediate effect. He is entitled for all consequential benefits. His intervening period from the date of dismissal to the date of re-instatement is decided as period spent on duty without back wages. The suspension from 23.7.88 to 5.11.98 is also decided as period spent on duty without any arrear as it is left to the discretion of the appointing authority since there is no order as to the fact from the Hon'ble C.A.T., Delhi.

The period from the date of issue of this order to the date of joining his duty will be counted as L.K.D. provided that he shall join his duty within two days from the date of its receipt otherwise this order stand cancelled.

Let him be informed accordingly."

3. This prompted the applicant to file another O.A.2037/2002 which was decided on 5.8.2002. This Tribunal directed that though vide order of 10.4.2002, the applicant has been denied the payment of pay and allowances of the two periods. but it does not refer to any specific rule. The respondents were directed to re-examine the matter in the light of F.R.54 (A)(III) and pass a fresh order.

4. On 5.11.2002, the order was again passed which reads:

"In pursuance of the judgement dated 5.8.2002 delivered by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A.No.2037/2002 - Const. Hawa Singh vs. U.O.I. & Ors. And DCP/Vigilance, Delhi's memo

18 Ag

No.18361/P.Cell/Vig. (P-V) dated 13.9.2002, this office order no.7395-7494/HAP(P-I) dated 10.4.2002 regarding re-instatement of Const. Hawa Singh No.2126/PCR (now 10803/DAP) issued as per judgement dated 6.2.2002 in O.A. No.978/2001 Hawa Singh Vs. UOI is hereby re-examined. The intervening period in respect of constable Hawa Singh No.2126/PCR (Now 10803/DAP) from the date of dismissal to the date of re-instatement i.e. 5.11.1998 to 10.4.2002 and suspension period from 23.7.1998 to 4.11.1998 is hereby decided as period spent on duty with all consequential benefits in accordance with provisions laid down under FR-54(A)(III).

Let the const. be informed accordingly."

5. It is not in dispute that in pursuance thereto, the payment of the arrears has been made.
6. The present grievance of the applicant is that his seniority and promotion have still been denied.
7. During the course of submissions, it transpired that the name of the applicant had been kept in the secret list of doubtful integrity.
8. Learned counsel for the applicant has drawn our attention to an order that has been passed during the pendency of the present petition dated 26.9.2003 removing the applicant from the secret list of doubtful integrity from the date of the judgement i.e. 2.11.99.
9. The grievance of the applicant is that his name should have been removed from the secret list from the very inception.
10. It would have been better if the matter had been considered at one time and keeping in view the sequence of



events which we have referred to above, name of the applicant should be considered to have been removed from the secret list from the very inception and his name should have been considered with respect to seniority and promotion also. It has unfortunately not been done.

11. All the same, the respondents can do the same exercising their power in accordance with law.

12. In face of the aforesaid and keeping in view the order that has been passed during pendency of the petition, we direct that the applicant shall represent to the respondents claiming seniority, promotion and the other reliefs referred to above. If the said representation is made, it would be appropriate that the matter is considered at the earliest keeping in view the long history of prolonged litigation. OA is disposed of.

Naik
(S.K. Naik)
Member (A)

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(V.S. Aggarwal)
Chairman

/dkm/