

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.3069/2003

Hon'ble Mr.L.K. Joshi, Vice Chairman(A)  
Hon'ble Mr.Mukesh Kumar Gupta, Member(J)

New Delhi, this the 16<sup>th</sup> day of March, 2007

Inspector Azad Singh Bhardwaj,  
S/o Shri Ram Kishan, Age 56 years,  
R/o 238, Sharda Niketan,  
Pitampura, New Delhi-34

..... Applicant

(By Advocate: Shri Arun Bhardwaj)

Vs.

Union of India through

1. The Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi.
2. Commissioner of Police,  
Police Head Quarter,  
I.P. Estate, New Delhi
3. Mohinder Dev (D-1-407)
4. Satpal Kapoor (D-1-720)
5. Sarup Singh Thakran (D-1-98)
6. Balbir Singh (D-1-2)
7. Rajbir Singh (D-1-127)
8. Radhey Shyam (D-1263)
9. Rajpal Singh (D-1-189)
10. Jai Singh (D-1-163)
11. Ved Prakash (D-1-180)
12. Mam Chand (D-1-190)
13. Prithvi Singh Yadav (D-1-207)
14. Mahipal Singh (D-1-220)
15. Hari Singh (D-1-217)
16. Malook Singh (D-1-226)
17. Ram Singh (D-1-254)
18. Bharat Singh (D-1-268)

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19. Rajender Singh (D-1-229)
20. Mohinder Singh (D-1-289)
21. Virender Singh (D-1-961)
22. Ravinder Nath (D-1-230)
23. Ram Kishan (D-1-293)
24. Kanwar Singh Yadav (D-1-594)
25. Rajender Parshad (D-1-993)
26. Rajeshwar Kumar (D-1-845)
27. Ramesh Kumar Malik (D-1300)
28. Chander P.S. Rathi (D-1-236)
29. Raghubir Singh (D-1-649)
30. Ran Singh (D-1-238)
31. Surender P.S. Rana (D-1-1291)
32. Mangal Sain (D-1-985)
33. Virender Singh (D-1-219)
34. Hukum Chand (D-1-296)
35. Mohan Singh (D-1-301)
36. Vimal Kumar Sagar (D-1-339)
37. Harichand Singh (D-1-233)
38. Om Prakash (D-1-357)
39. Jaldhari Lal Meena (D-1-345)
40. Nand Kishore Meena (D-1-346)
41. Yashwant Singh Negi, (D-1-122)
42. Ram Chander Meena (D-1-363)

3-42 served through Commissioner of Police, Police Headquarters,  
I.P. Estate, New Delhi ..... Respondents

(By Advocate: Ms. Simran, proxy for Mrs. Avnish Ahlawat)

### **ORDER**

**Mr. L.K. Joshi, Vice Chairman (A)**

This OA has been filed against the order dated 19.11.2003 by which a  
representation submitted by the Applicant to his superior officers that in the

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seniority list issued by the Police Headquarters of Delhi Police vide No. 55360-460/CB-I dated 25.07.2002 date of his promotion to the rank of Inspector has been wrongly shown as 26.05.1992, whereas it should have been shown as 1.01.1990 and the date of his confirmation should have been shown as 1.01.1992, has been rejected.

2. Briefly the facts of the case are as follows. The Applicant, while serving as a Sub-Inspector in Delhi Police was promoted under Rule 19 (ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 as Inspector on an ad-hoc basis for an act of bravery. On 16.07.2002 / 25.07.2002 a seniority list of confirmed Inspectors (Executive) was issued by the Ministry of Home Affairs in which the Applicant has been placed at serial number 430. Aggrieved by this the Applicant gave a representation to the Commissioner of Police, Delhi that in view of his out-of-turn promotion on 1.01.1990, he should be placed at serial number 369 showing his date of promotion as 1.01.1990 and date of confirmation as 1.05.1992. He made similar representations on 17.01.2003 and 17.03.2003. His representations were rejected by the impugned order dated 19.11.2003.

3. Rule 19 of the Delhi Police (Promotion and Confirmation) Rules is as follows:

"19. Ad-hoc promotions – (i) In special circumstances when there are no approved names on promotion lists, and vacancies exist, the Commissioner of Police, may promote suitable officers in order of seniority to next higher rank temporarily. Such promotions shall not entitle the officers concerned to claim and right for regular appointment or seniority or for appointment to such or any other equivalent post and shall be liable to reversion without notice as soon as qualified men become available.

(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 exceed 5 per cent of the vacancies likely to fall vacant in the given year not in the rank. Such promotions shall be treated as ad-hoc and will be regularized 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.

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(iii) The Commissioner of Police, Delhi for the purpose of posting to the Police Training School and the Recruits Training Centre (DAP IVth Bn. at present) personnel of appropriate merit and talent may grant one rank promotion as an incentive purely on emergent basis up to the level of Inspector without conferring on the promotee, any right of seniority and appointment whatsoever even if he may be borne on promotion list.

Such promotees shall revert to their substantive rank as soon as they are transferred out of training institutions and ceased to be an Inspector."

4. The learned counsel for the Applicant has argued that under the above Rule the condition for regularisation of such ad-hoc promotions would be successful completion of the prescribed training course. Since in the instant case no training course is prescribed, the promotion should be considered to have been regularised. It is also assumed, on a reading of the Rule, that vacancies would have existed before the promotion was made since it is a condition for promotion. It has also been argued that it is 'promotion list', which is mentioned in the Rule and not the eligibility list, it would only be logical to assume that the part of the sentence in Rule 19 (ii), which reads, "For purposes of seniority such promotees shall be placed at the bottom of the *promotion list drawn up for that year*" . (emphasis ours) would mean the seniority list prepared for the year in which promotion has been made, i.e. in the instant case 1990.

5. It has been contended that in the Seniority List circulated by MHA on 16.07.2002, the date of Applicant's promotion has been shown as 26.05.1992, for which no basis has been given and, moreover, his date of confirmation has also not been given, which makes it defective. It has also been argued that one Sh. Ravi Shankar, promoted on 13.09.1990 has been correctly shown at serial number 386 whereas the Applicant has been relegated to serial number 430. However, since this matter has not been averred in the OA, we shall not consider this.

6. The learned counsel for the Applicant has cited the case of Inspector Kapoor Singh Vs. UOI and Ors., in OA no. 2699/2004 with OA no. 137/2005 in which the Tribunal ordered re-fixing of the seniority of the Applicant and some others in accordance with the principle followed in SI

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Babu Singh's case, who had been given out-of-turn promotion on 23.09.1987, along with Kapoor Singh but the former was placed at the bottom of the promotion list drawn on 16.02.1987 whereas the latter was placed in the promotion list of 23.05.1988. We note, however, that in this cited case the interpretation of Rule 19 (ii) is not the issue. The issue is quite different and hence it does not support the Applicant in the instant case.

7. It has further been contended that the meetings of the DPC have to be held every year. In this case, promotion list has been issued on 12.02.1991 vide Notification No.5184/CB-I. In this context, list of 1990 is not there.

8. It is further contended that the act of bravery and gallantry was performed in 1989 but the order of promotion was issued on 05.01.1990. In fact, it is contended that this order should have been ante-dated to 1989 when the act of bravery was performed.

9. Learned counsel for the respondents has contended that the promotion lists are drawn up financial yearwise and the list of financial year 1990-91 is the list which should not be confused with a separate list of 1991 or the list of 1990. In this list drawn up on 12.02.1991, which was the promotion list for the year 1990-91, Sub Inspector Ram Chander Meena was the last man to be in the promotion list and who was promoted only from 26.05.1992. It is contended that his name appears at Serial No.429 in the seniority list issued on 25.07.2002 and, therefore, the name of the applicant in the said seniority list of 25.07.2002 appears at Serial No.430. This explains the date of 26.05.1992.

10. The argument that promotion list has not been defined in the Rule and, therefore, it would be right to assume that promotion list drawn up for that year should mean the year in which the gallantry award is given. This is, in our view, a laboured argument. Even if it is not defined, it is clearly referred to in the previous orders of this Tribunal in O.A. No.2612/2005 and O.A. No.168/2004 with O.A.No.204/2004 and judgment of the Hon'ble Delhi High Court in W.P. No.4164/2001 (Govt. of NCT Delhi and others v. Shri Rajbir

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Singh) and its meaning is very clearly understood as the promotion list prepared by a DPC on the basis of seniority. It is not to be confused with the eligibility list.

11. Promotion under the Delhi Police (Promotion & Confirmation) Rules, 1980 are done under Rules 12 to 17. Rule 17 deals with promotion in List 'F' (Executive), in which the Applicant has been promoted. Rule 17 is as follows:

"17. List 'F' (i) List – F (Executive)

Confirmed Sub-Inspector (Executive), who have put in a minimum of 6 years service in the rank of Sub-Inspector, shall be eligible. The selection shall be made on the recommendations of the Departmental Promotion Committee. The names of selected Sub-Inspector shall be admitted to List-F (Executive) on the basis of their respective seniority, keeping in view the number of vacancies likely to occur in the following one year, and promotion made to the rank of Inspector from this list as and when vacancies become available.

(ii) List-F (Technical)

Confirmed Sub-Inspector (Specialised/Technical), who have put in a minimum of 6 years service in the rank of Sub-Inspector in their respective cadres, shall be eligible. The selection shall be made on the basis of the recommendations of the Departmental Promotion Committee. The names of selected Sub-Inspector shall be brought on List-F (Specialised/Technical) in order of their respective seniority, keeping in view the number of vacancies likely to fall vacant in the following one year, and they shall be promoted to the rank of Inspectors in their respective cadres as and when vacancies become available.

(iii) List – F (Ministerial)

[Confirmed Sub-Inspector (Min.) and Confirmed Shorth and Reporters (Sub-Inspectors) having 6 years service in the rank of Sub-Inspr. (Min.) and Shorthand Reporter (Sub-Inspr.) respectively shall be eligible. The selection shall be made on the recommendations of the Departmental Promotion Committee. The names of the Sub-Insprs. (Min.) and Shorthand Reporters (Sub-Insprs.) so selected shall be brought on list 'F' (Min.) in order of their respective seniority, keeping in view the number of vacancies likely to occur in the following one year, and promotions made to the rank of Inspr. (Min.) from this list as and when vacancies become available.]"

12. Moreover, it is very clear in the order dated 05.01.1990 by which the applicant has been promoted for gallantry that the applicant will have no claim for seniority and would be liable to reversion at any time and that his ad-hoc promotion would depend upon his continuous good work and conduct

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during the period of such promotion. The rule is clear as the daylight and there is not much scope for confusion.

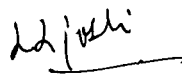
13. The interpretation of Rule 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 is a perennial issue and has been considered in many OAs by this Tribunal. The final word according to us would be the Full Bench judgment of this Tribunal in Sub Inspector Yash Pal Singh vs. Union of India others (O.A. No. 168/2004 with O.A. No.204/2004) in which the issue has been discussed in great depth and answered as follows:

"29. In light of discussion made hereinabove, we answer the reference as under:-

The seniority of persons promoted under Sub-Rule (ii) of Rule 19 of Delhi Police (Promotion & Confirmation) Rules, 1980 is to be placed at the bottom of the promotion list drawn up in that year when they are considered for regularization under Rules 12-17 of the said Rules."

14. Considering the above, we find no merit in this O.A., which is accordingly dismissed. No order as to costs.

  
( Mukesh Kumar Gupta )  
Member (J)

  
( L.K. Joshi )  
Vice Chairman (A)

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