



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 3739/2016

This the 06th day of December, 2019

**Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

Anil Kumar Dhaka
S/o late Sh. D.P. Dhaka
R/o 25A, Durgapuri Extn.
Gali No. 1, Shahdara
Delhi – 110093. ... Applicant

(through Sh. L.K. Singh)

Versus

1. Govt. of NCT of Delhi
Through the Secretary-cum-Commissioner(Transport)
Transport Department
5/9, under Hill Road
Delhi-110054.
2. Govt. of NCT of Delhi
Through the Secretary (Services)
Delhi Secretariat
IP Estate, New Delhi-110002.
3. Sh. Sultan Singh
Inspector (Enforcement)
Transport Department
Govt. of NCT of Delhi
5/9, Under Hill Road
Delhi-110054. ... Respondents

(through Sh. B.N.P. Pathak)



ORDER (Oral)

Hon'ble Mr. Pradeep Kumar:

Sh. L. K. Singh, learned counsel appeared for the applicant and Sh.B.N.P. Pathak, learned counsel appeared for the respondents.

2. The applicant was working as Sub Inspector in the Transport Department of GNCTD. There were seven vacancies for the post of Inspector Enforcement and the distribution was five general, one SC and one ST. The DPC meeting took place on 12.05.2016 when a total of six candidates were considered. Candidates at serial nos. 1 to 5 belonged to General community while candidate at serial number 6 belonged to SC community. Applicant's name appears at Serial No. 5 in this list. The DPC made recommendations for promoting four candidates at serial number 1 to 4 in the General list and for the candidate at serial number 6 against the SC post. In respect of ST vacancy, since there was no candidate belonging to ST community in the zone of consideration, the said vacancy was carried forward.

3. However, the DPC recommendations in respect of two general candidates at serial number 2 and 3 were kept in sealed cover since a vigilance case was pending against them. Sealed cover was to be opened when the said vigilance proceedings are completed. The DPC also noted that there was one another general candidate by the name, Sh. Balram Dahiya who was already reinstated in service vide order dated 18.11.2015 and for whom consequential benefits including seniority and



promotion were already under consideration as per order dated 08.03.2016. For Sh. Balram Dahiya, the DPC kept one of the General community posts vacant. Thus applicant, who appeared at Serial No. 5 was not promoted.

4. The applicant is a general candidate and has since been promoted as Inspector Enforcement in 2018. He pleads that subsequently, the general candidate at serial number 3, Sh. Krishan Kumar Verma was finally penalized in the said vigilance case and he was not promoted. With this, one of the General community post was actually not filled as per the DPC recommendations of 12.05.2016 and accordingly, his case needs to be considered for preponement of his promotion from year 2018 to year 2016. This is the grievance ventilated in this OA.

5. The respondents opposed the OA. It was pleaded that the DPC and the department have followed the relevant instructions on the subject wherein the candidates facing disciplinary cases are required to be considered and their recommendations are required to be kept in a sealed cover. The post meant for reserved community candidates are to be filled up from reserved candidate only. However, if no reserved community candidate is available, the vacancy is required to be carried forward.

The department has strictly followed these instructions and the OA in respect of the applicant has no merit and the same is required to be dismissed.



6. The matter has been heard. The rules on the subject are very clear. There were five General category vacancies. The applicant's name as per the list considered by the DPC was at serial number 5. However, there was one more General community candidate by the name Sh. Balram Dahiya who was already reinstated in service w.e.f. 18.11.2015 and for which orders were already issued on 08.03.2016. Accordingly, the DPC which met on 12.05.2016, was duty bound to keep the name of Sh. Balram Dahiya for the said vacancy and with this, the applicant's name goes beyond the zone of consideration for the five general vacancies. There are no rules which permit that the promotions can be preponed the way, the applicant has pleaded.

7. The Tribunal does not find any merit. The OA stands dismissed. No costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/ns/