

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8952/2009**

% ***Date of Decision: 17.01.2011***

GOVT. OF NCT OF DELHI & ORS. *Petitioner*
Through Ms.Zubeda Begum with Ms.Sana Ansari,
Advocates

Versus

SATYABIR SINGH *Respondents*
Through Mr.Sourabh Ahuja, Advocate

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR
HON'BLE MS. JUSTICE VEENA BIRBAL

1. Whether reporters of Local papers may be allowed to see the judgment? No
2. *To be referred to the reporter or not? Yes*
3. Whether the judgment should be reported in the Digest? Yes

VEENA BIRBAL, J.

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1. Present is a petition under Article 226 of the Constitution of India wherein a challenge is made to the order dated 18th September, 2008 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'the Tribunal') in OA 1513/2007 whereby direction has been given to petitioners to give benefit of out of turn promotion to the respondent retrospectively.
2. Necessary facts relevant for the disposal of the petition are as under:-

Respondent-Satyavir Singh was appointed as a Constable (Executive) in Delhi Police on 16.11.1987. He was granted ad hoc promotion in the rank of Head Constable (Executive) w.e.f 24.3.2005

on out of turn basis under Rule 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 (hereinafter referred to as 'the Rules'). On 8.8.2006 a citation for the grant of out of turn promotion to the next higher rank was received in the office of respondent no.4 from DCP Special Cell (SB), Delhi, in respect of eight police officials including the respondent, all members of the team which apprehended Sher Singh Rana, the killer of Phoolan Devi, the then Member of Parliament, for displaying their dedication, sincerity by meticulous planning, developing every minute information so obtained etc. Accordingly, the aforesaid citation was referred before the "Incentive Committee" constituted by the Commissioner of Police, Delhi, comprising of a Special Commissioner of Police as its Chairman, two Joint Commissioners of Police and one Deputy Commissioner as its members. The matter was considered by the Incentive Committee as per criteria fixed by it and recommended respondent and others for the award of '*Asadharan Karya Puraskar*' on 15.12.2006. The recommendations were approved by the Commissioner of Police, Delhi. Accordingly, respondent and seven other police officers were awarded the aforesaid award with cash reward of Rs.5000/-.

On 15.1.2007, DCP (Special Cell) (SB), forwarded the representations submitted by respondent and seven other police officers/men requesting therein for the grant of Out of Turn Promotion to their next higher rank instead of '*Asadharan Karya Puraskar*'. The Commissioner of Police, Delhi ordered for placing the same before the "Incentive Committee". On 24.4.2007, the "Incentive Committee" considered their respective cases and also heard them in person wherein they represented that the entire team was responsible for

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nabbing the most notorious and elusive criminal, namely, Sher Singh Rana who was carrying a reward of Rs.50,000/- on his head declared by Delhi Police and was arrested after making serious efforts for six months. The Incentive Committee did not recommend the names of ASI Devender Kumar and the present respondent for out-of-turn promotion on the ground that both of them had been given out-of-turn promotions on 30.03.2006 and 24.03.2005 respectively, as such, they were not falling under the criteria fixed by it for out-of-turn promotion in its meeting held on 4.12.2006. Accordingly, they were not recommended for out of turn promotion. It was observed that '*Asadharan Karya Puraskar*' with cash reward of Rs.5000/- was adequate for them. The Incentive Committee recommended for the grant of Out of Turn Promotion to SI (Exe) Neeraj Kumar, Head Constable (Exe) Satish Kumar and Constable Surender Kumar. The Incentive Committee also examined the individual role of remaining three police officials of the team and did not recommend their names for out of turn promotion. The recommendations made by the Incentive Committee were approved by the Commissioner of Police, Delhi and accordingly, respondent was informed vide Hdqrs.U.O.No.24495/ CB/IV/PHQ on 8.5.2007.

3. Aggrieved with the aforesaid order, respondent filed OA No.1513/2007 before the Tribunal. ASI Devender Kumar had also challenged the said order by filing separate O.A. i.e. OA No.1512/2007.

4. Both the O.As were disposed of vide common judgment dated 18th September, 2008 by the Tribunal by which it did not grant any relief to ASI Devender Kumar whereas the present respondent was W.P.(C) 8952/2009

granted out-of-turn promotion retrospectively.

5. The petitioners challenged the impugned order dated 18.09.2008 by filing the present petition in so far as it allows the O.A. No.1512/2007 filed by the respondent.

6. Counsel for the petitioners has contended that the Tribunal has committed illegality in granting out of turn promotion to the respondent. It is contended that Rule 19 (ii) of the Rules provides for ad hoc promotion to suitable officers for exceptional gallantry and devotion to duty, provided vacancies exist and also to the extent of five per cent of the vacancies during the given year. It is contended that when the matter was considered by the Incentive Committee for the grant of Out of Turn Promotion, keeping in view the ceiling limit, the case of respondent was not considered as no vacancy was then existing.

7. On the other hand, the contention of the respondent is that the impugned order passed by the Tribunal is legal and justified. It is contended that out of turn promotion has been granted to the other three members of the team namely SI Neeraj Kumar, HC Satish Kumar and Constable Surender Kumar and now by the judgment of Division Bench of this court passed in WP(C) 8841/2008, ASI Devender Kumar has also been accorded out of turn promotion and as such, petitioner cannot be discriminated by denying the same to the respondent.

8. It is admitted position that respondent was a member of the team which had nabbed accused Sher Singh Rana, killer of Phoolan Devi, the then Member of Parliament. The members of the entire team were recommended for out of turn promotion to the next higher

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As regards contention of petitioner that there was no vacancy in the rank of ASI when the matter was considered by the Incentive Committee, the Tribunal has observed as under:-

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The Tribunal has categorically observed that the minutes nowhere states that the ceiling limit of 5% out-of-turn promotion would have exceeded in case the said promotion was given to respondent. The aforesaid observation is made after perusing the minutes of the meeting of the Incentive Committee. The Incentive Committee did not recommend the respondent for the grant of out-of-turn promotion on the ground that he had already got one out-of-turn promotion on 24.3.2005, as such, was not falling as per the criteria fixed by it and not for the reasons as is being contended now. The Tribunal noting that the other members of the team, namely SI Neeraj Kumar, HC Satish Kumar and Ct. Surender Kumar were also granted earlier one out-of-turn promotion each despite that they were recommended for second such promotion, has held that the petitioners have discriminated the respondent by denying promotion to him. The finding of the Tribunal is legal and justified.

In view of above discussion, the contention of learned counsel for the petitioners that prescribed ceiling limit of 5 per cent would have exceeded in case respondent was recommended for out of turn promotion, has no force. It may also be noticed that no such stand was taken by the petitioners in the counter affidavit filed by it before the Tribunal nor any such stand is taken in the present petition challenging the impugned order of the Tribunal.

Counsel for the petitioner has placed reliance on Jatinder Kumar & ors Vs. State of Punjab & ors reported in AIR 1984 SC 1850. We have gone through the said judgment. The same is not applicable to the facts of the present case.

Considering the totality of the facts and circumstances, we find no illegality or irrationality in the order of the Tribunal which calls for no interference by this court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition is dismissed with no order as to costs.

VEENA BIRBAL, J.

ANIL KUMAR, J.

JANUARY 17th, 2011
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