

\$~18.

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

+ **W.P.(C) 8976/2017**

KAILASH SINGH BISHT (INSPECTOR)

..... Petitioner

Through: Mr. A.K. Bhardwaj and Mr. Yashpal
Rangi, Advocates

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondent

Through: Mr. Santosh Kr Tripathi, ASC with
Mr. Shashank S Tiwari, Adv. a/w Mr.
Narender Singh, Delhi Police

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

13.11.2018

%

The submission of learned counsel for the petitioner is that the petitioner had sought to place reliance on the treatment meted out to Umesh Barthwal in the matter of out of turn promotion from the rank of Sub Inspector to Inspector. The date of action; the date of approval, and; the date of grant of OTP to other team members in respect of Umesh Barthwal were later in point of time when compared to the petitioner. In the case of the petitioner, the date of action; the date of approval, and; the date of grant of OTP to other team members were 20.11.2005; 19.04.2006; and

28.04.2006, whereas in the case of Umesh Barthwal, the corresponding dates were 07.03.2006; 05.12.2006, and; 15.12.2006. Yet, Umesh Barthwal was granted OTP on 15.12.2006, whereas the petitioner was granted OTP only on 08.05.2007. The tribunal has rejected the said reliance placed by the petitioner on the premise that in the case of Umesh Barthwal, the OTP had been granted in terms of the judgment of this Court in W.P. (C) No. 5203/2012, *Umesh Barthwal v. GNCTD* decided on 06.03.2013 along with several other petitions.

Mr. Bhardwaj submits that the grant of back date promotion to Umesh Barthwal shows that in the year 2006 there were vacancies available under the 5% OTP quota for the post of Inspector. That being the position, the claim of the petitioner should have been accommodated first. The further submission of Mr. Bhardwaj is that he had also contended before the tribunal that there were 11 vacancies in the 5% OTP in the rank of Inspector considering that 221 sub inspectors were promoted under Rule 17 of the Delhi Police (Promotion & Confirmation) Rules, 1960 in the year 2006. He submits that though this issue was raised before the tribunal, the tribunal has not considered the same in the impugned order.

He further submits that one of the promotes as inspector, namely, Akhileshwar bearing sl. No.D/884, who was granted promotion on 02.01.2006 was subsequently granted retrospective promotion from 19.03.1998, and the post vacated by Akhileshwar in the year 2006 was also available – where against the petitioner could have been granted OTP in the year 2006. Even this aspect has not been considered by the tribunal.

In our view, in the first instance, the tribunal should address the said factual issues raised by the petitioner and in that light examine the claim of

the petitioner. It appears that the facts and figures placed before the tribunal by the respondent in the additional affidavit – taken note of in para 11 of the impugned order may need reconsideration in the light of the aspects highlighted by the petitioner.

Accordingly, we set aside the impugned order and remand the case back to the tribunal for its reconsideration, particularly on the aspects taken note of herein above. The parties shall appear before the tribunal on 04.12.2018. A copy of this order be communicated to the tribunal for compliance.

Petitions stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 13, 2018

sr