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

+ **W.P.(C) 6753/2016**

OM PRAKASH AND ORS

..... Petitioners

Through: Mr. Anil Singhal, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Manish Mohan with Ms.Manisha Saroha, Advocates for UOI.
Mr.Devesh Singh, ASC for GNCTD.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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25.11.2019

1. The challenge in this petition is to a judgment dated 2nd June, 2016 passed by the Central Administrative Tribunal ('CAT'), Principal Bench, New Delhi, dismissing OA No.1426 of 2015 filed by the present Petitioners for directions to the Respondents i.e. Union of India through Ministry of Home Affairs ('MHA') – Respondent No.1, Lt. Governor of Delhi – Respondent No.2 and Commissioner of Police – Respondent No.3 to grant each of the Petitioners out-of-turn promotions ('OTP') to the rank of Assistant Sub Inspector/Head Constable ('ASI/HC') for their "exemplary role in a joint operation at Rohtak".

2. The CAT by the same impugned order also negated the Petitioners' challenge to an order dated 4th February 2015, by which the Respondent No.3 informed the Petitioners that it had been decided to place their cases for grant of out of turn promotions before the 'Incentive Committee' ('IC') instead of promoting them on an out of turn basis as already sanctioned by

the Commissioner of Police, Delhi by an order dated 19th July, 2013.

3. There are 4 Petitioners before this Court as were before the CAT. Petitioner Nos. 1 and 2 are Head Constables, whereas Petitioner Nos. 3 and 4 are Constables. Their case is that they were recommended for grant of OTP due to their outstanding exemplary role during “apprehension of desperate gangsters in Rohtak”. These recommendations were stated to have been sanctioned by the Commissioner of Police, who is the competent authority, by an order dated 31st July, 2013. As a result, appreciation letters and cash rewards stood sanctioned. By a letter dated 31st July, 2013 a citation was called for grant of OTP.

4. Having not heard from the Respondents, the Petitioners submitted a representation on 29th September, 2014. By the reply dated 4th February, 2015 they were informed that their cases would be placed before the IC.

5. Even before the CAT, the Petitioners urged that there was no occasion to place their cases before the IC since the Commissioner of Police had already recommended their cases. The CAT rightly observed that there was no legal right created in favour of the Petitioners for such OTP on account of them having been recommended on ‘sanction’ in the note of the Commissioner of Police.

6. The CAT also referred to Rule 19 (2) of the Delhi Police (Promotion and Confirmation) Rules, 1980 which reads as under:

“To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may, with the prior approval of the Administrator, promote such officers to the next higher rank

provided vacancies exist. Such promotions shall not exceed 5 per cent of the vacancies likely to fall vacant in the given year 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.”

7. Reference was also made to the decision dated 9th August, 2010 of this Court in W.P. (C) 10733 of 2009 (*Commissioner of Police v. SI Sabir Singh*) which held that OTP is a special benefit and cannot be claimed as a matter of right.

8. This Court has heard the submissions of Mr. Anil Singhal, learned counsel appearing for the Petitioners, Mr. Manish Mohan, learned counsel for the Union of India and Mr. Devesh Singh, Additional Standing Counsel for the Govt. of NCT of Delhi.

9. The Court is not persuaded that the Petitioners have been treated unfairly by their cases being referred to the IC, despite the Commissioner of Police having recommended their cases for OTP. Indeed, the grant of an OTP is not a matter of right. Merely because some similarly situated may have been granted such OTP would not be a good enough reason to override the decision of the Respondents, declining to have done so in the cases of the present Petitioners.

10. Rule 19 (2) of the Delhi Police (Promotion and Confirmation) Rules, 1980 operates in a narrow compass. It is intended to encourage “outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty”. There are also guidelines issued by an order dated 21st

September, 1999 of the Commissioner of Police, the relevant portion of which reads as under:

“all the cases of out of turn promotion when received in the Headquarters shall be first examined by a Committee consisting of a Chairman and 3 members. By the said order it was made clear that the said committee shall examine whether the act for which out of turn promotion is recommended involves threat or risk to life of a police personnel concerned. If the act does not concern any bravery and gallantry, it should be examined whether the achievement in question was a result of efforts put in by the individual which may be termed as beyond the call of duty. Another category can be of a person who has been performing consistently outstandingly for quite some time and deserves encouragement for his extreme hard work and outstanding performance and devotion to duty.

The committee must ensure that under no circumstances should a police personnel be recommended for out of turn promotion in a routine type of work or for a performance which cannot be categorized as outstanding. The committee will make minutes of the meeting in which such cases are considered. The committee will come to a conclusion which should be conveyed to me and the minutes of meeting be signed by the Chairman as well as members of the committee. Thereafter the recommendations will be put up for final approval of the undersigned.”

11. A reference has also been made to the circular issued on 24th April, 2000 by the Additional Commissioner of Police and standing order issued on 14th October, 2014 setting out the procedure for grant of *ad hoc* promotion on OTP basis to Delhi Police personnel. In an additional affidavit filed on behalf of the Respondents, the guiding principles and eligibility criteria have also been set out. Specific to the case on hand it is stated that:

“a Recommendation Roll containing the recommendation for grant of appreciation letter to 04 officers, Commendation Roll to 22 police personnel, Cash reward of Rs. 50,000/- to secret informer, Asadharan Karya Puraskar (AKP) to 08 police personnel and out of turn promotion (OTP) to the petitioners HC Om Prakash No. 693/Cr., HC Surender Malik No. 34/Cr., Ct. Sandeep Nara No.1895/Cr. & Ct. Praveen No. 863/Cr. was put up by the Addl.DCP/Crime to the Commissioner of Police, Delhi on 16.07.2013 for apprehending 04 sharpshooters on 13.07.2013 with interstate coordination of Haryana Police and the same was signed/sanctioned by the C.P., Delhi on 19.07.2013.”

12. Since there was no clear order of the CP, Delhi regarding examination of the recommendation for grant of OTP to the Petitioners, the matter was placed before the senior officers for clarification. It was then decided that the case be placed before the IC.

13. In that view of the matter, the Court is unable to be pursued that the denial of the OTP to the Petitioners was either unreasonable or arbitrary. The impugned order of the CAT, therefore, calls for no interference. The petition is accordingly dismissed.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 25, 2019/tr