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

Date of decision: 16.12.2025

+ W.P.(C) 11569/2025 & CM APPL. 47274/2025

COMMISSIONER OF POLICE AND ANRPetitioners

Through: Mr.Ashish K. Dixit, CGSC with
Mr.Shivam Tiwari, Mr.Umar
Hashmi, Ms.Iqra Sheikh, Advs.

versus

SHRI MANOJ KUMAR

.....Respondent

Through: Ms.Arundhati Katju, Sr. Adv.
with Mr.Sidharth Goswami and
Ms.Jaspriya Popiy, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 12.02.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.4326/2018, titled ***Manoj Kumar v. Commissioner of Police & Anr.***, allowing the said O.A. filed by the respondent herein, with the following directions:

"6.6 Therefore, for the reasons explained hereinabove, the OA is allowed. The impugned order dated 27.06.2017 is quashed. The respondents shall reassign the seniority to the applicant in the seniority list of inspectors from the date of promotion of his juniors /batchmates. The respondents will take note of



the seniority of the applicant and carry out necessary corrections in the seniority lists. The applicant will be entitled to all consequential benefits that may include' subsequent promotions by convening review DPC, albeit on notional basis. The aforesaid exercise shall be completed by the respondents within a period of eight weeks from the date of receipt of a certified copy of this order. No order as to costs."

Brief Facts:

2. To give the brief background of facts in which the present petition arises, the respondent, who was working as Sub-Inspector (Executive) with the petitioners, was issued Memorandum for disciplinary proceedings, *vide* Order dated 11.06.2003. Considering the report of the Inquiry Officer and the reply thereto by the respondent, by an Order dated 19.05.2008 passed by the Joint Commissioner of Police, New Delhi, he was visited with penalty of forfeiture of two years approved service temporarily for a period of two years entailing proportionate deduction in pay. The appeal against this penalty also stood dismissed *vide* Order dated 12.10.2009. The name of the respondent was also kept under 'Secret List of Doubtful Integrity' on 19.05.2008, which eventually came to be removed on 19.05.2011. In the meantime, the case of the respondent for promotion to the post of Inspector (Executive) was considered by the DPCs held on 30.11.2007, 16.09.2008, 13.01.2009 and 14.09.2009. He was found unfit for promotion by these DPCs. The case of the respondent was thereafter again considered by the DPC held on 24.05.2011 which, as per the petitioners, considering that the name of the respondent is in the Secret List, had found him unfit for



promotion. The respondent represented against the same and the petitioners accepted such representation and conducted a Review DPC on 22.07.2011, and the meetings of Review DPC were held on 03.10.2011 and 19.10.2011. The respondent, being found fit for promotion, was promoted to the rank of Inspector (Executive) with effect from 28.05.2011, *vide* Order dated 25.10.2011.

3. The respondent thereafter submitted a representation dated 12.04.2017 claiming retrospective seniority in the rank of Inspector from the date his juniors were appointed. The same was rejected by the petitioners *vide* Order dated 27.06.2017. Another representation dated 22.06.2018 came to be rejected by the petitioners, *vide* Order dated 23.08.2018. Aggrieved thereby, the respondent filed the above O.A. before the learned Tribunal.

4. The learned Tribunal, placing reliance on Rule 8(d) of the Delhi Police (Punishment and Appeal) Rules, 1980 (in short, 'Rules') as also the Standing Order No.378/2009 issued by the petitioners, has allowed the above O.A., while observing as under:

"6.4 Evidently as reflected in the impugned order, the respondents have compared the case of the applicant with the others in various litigation pending before the Hon'ble High Court, wherein the sealed cover were opened and review DPC was held. The respondents themselves have mentioned that the case of the applicant was not similar to the persons in the Writ Petitioners.

The Rule 8(d) of the Delhi Police (Punishment and Appeal) Rules, 1980, reproduced hereinabove, make it clear that accrued service could be forfeited permanently or temporarily for a specified period, however, for the purpose of seniority the permanent



forfeiture would be considered. In the present fact, the penalty imposed is temporarily forfeiture. The respondents have not considered the case of the applicant in light of the said provision, while having examined the same in light of the DOPT OM. The respondents ought to have examined the cause of the applicant in light of the specific rules of the respondents on the subject.

6.5 The Standing Order No 378/2009, provision 7 is with respect to the censure and the addendum placed at page 73 is placed right below clause 5 of the Standing Order. The addendum has been incorporated subsequently. The case of the applicant has not been considered in light of the addendum. The respondents have themselves while extending the promotion have assigned the seniority and placed the name of the applicant in correct list, while in the seniority list has not given benefits of his earlier seniority in violation of the Rule 8(d) of the Delhi Police (Punishment and Appeal) Rules, 1980 as well as the addendum.”

Submissions of the learned counsel for the petitioners:

5. The learned counsel for the petitioners submits that Clause 6.5 of the Standing Order No.378/2009, relied upon by the learned Tribunal, has no application to the facts of the present case as it dealt with the case of officers being visited with punishment of censure, while in the present case, the respondent was visited with punishment of forfeiture of two years approved service for a period of two years entailing proportionate deduction in pay though temporarily.

6. He further submits that Rule 8(d) of the Rules will also have no application where the case of the officer has been duly considered by the DPC and the officer is found unfit for promotion on such



consideration. He submits that, in fact, the same Rule was interpreted by this Court in the own case of the respondent, *vide* judgment dated 26.11.2010 passed in the Writ Petition No.7689/2010, titled ***Commissioner of Delhi Police & Anr v Manoj Kumar***.

Submissions of the learned senior counsel for the respondent:

7. On the other hand, the learned senior counsel for the respondent submits that the reports of concerned DPC(s) from 2006 to 2011 were not placed before the learned Tribunal in the O.A. She submits that while it is true that Rule 8(d) of the Rules would not *ipso facto* vitiate the consideration of the DPCs regarding the fitness of the respondent for promotion, in case the respondent was otherwise found fit for promotion by the concerned DPC(s), the same has to be given effect to by granting retrospective seniority to the respondent. She further submits that Rule 8(d) of the Rules would therefore be applicable to the facts of the present case.

Analysis and findings:

8. We have considered the submissions of the learned counsels for the parties.

9. First, we shall consider the Standing Order No.378/2009. Clause 5 of the Standing Order, as originally issued on 29.07.2009, stated as under:

“5. Officers, who have been awarded a censure during the last 6 months and not covered by any of above clauses on minor punishment, can be allowed to be brought on the promotion list. However, the effect of censure debarring the official for promotion for six months from the date of award shall continue.”



10. Thereafter, an addendum dated 09.10.2009 was issued, wherein the following was added at Point No.5:

“After expiry of the period of penalty, the official concerned will be promoted from the same panel in which he was originally empanelled. On his promotion, his pay and seniority in the higher post will be fixed according to his position in the panel from which he is promoted but the monetary’ benefits in the higher post will be admissible only from the date of his actual promotion.”

11. A combined reading of the original Standing Order along with Addendum, clearly shows that it is applicable only to the cases where an officer is visited with the punishment of ‘censure’, wherein the effect is of debarment of promotion for six months from the date of award of the punishment. The Addendum states that in such case, on expiry of the period of penalty, the official concerned will be promoted from the same panel in which he was originally empanelled.

12. In the present case, the respondent had not been visited with the punishment of Censure, but forfeiture of two years approved service, though temporarily. Clause 5 of the Standing Order or its Addendum, therefore, has no application as far as the case of the respondent is concerned.

13. Coming to Rule 8(d) of the Rules, we may do no better than to quote from the judgment dated 26.10.2010, which has considered the effect of the said Rules and held, as under:

“20. A residual controversy may also be



settled by us. Rule 8 of the Delhi Police (Punishment and Appeal) Rules 1980 stipulate the penalties which may be levied upon an officer of the Delhi Police and vide clause (d) penalty of approved service being forfeited permanently or temporarily for a specified period may be imposed. Penalty of reduction in pay or deferment in an increment or increments permanently or temporarily may also be imposed. The language of the clause has been creating some problem and we find that some Benches of the Tribunal have taken the view that only such forfeiture of approved service which is permanent can be taken into account while determining fitness of a police officer under Delhi Police. Clause (d) reads as under:-

*“(d) **Forfeiture of approved service** – Approved service may be forfeited permanently or temporarily for a specified period as under:-*

- (i) For purposes of promotion or seniority (Permanent only).*
- (ii) Entailing reduction in pay or deferment of an increment or increments (permanently or temporarily).”*

21. For the reason the words ‘permanently or Temporarily’ are to be found at the end of clause (ii) and the words ‘permanently only’ are to be found at the end of clause (i) the Tribunal has been holding that it would mean that only permanent forfeiture of approved service has to be treated as a penalty for purposes of considering promotion or seniority.

22. The said reasoning of the Tribunal is plainly wrong for the simple reason Rule 8 deals with and provides the penalties which can be levied and the effect of the penalties has to be considered independent thereof. Needless to state the law is well-settled and a few decisions have been noted by the Division



Bench of this Court in ASI Jawahar Singh's case, reference whereof has been made by us hereinabove, being that debarment of being considered for promotion is distinct from the parameters on which fitness has to be determined and while determining fitness the DPC can certainly look into the service record and take into account the penalties levied. Thus, it cannot be said that a penalty of temporary forfeiture of approved service has to be ignored while determining fitness."

14. The learned Tribunal, in its Impugned Order, has not considered the effect of the above judgment as far as the case of the respondent is concerned. To put it succinctly, the respondent was considered by the DPC(s) which have been mentioned hereinabove. The question before the learned Tribunal would have been whether these DPC(s) had considered the case of the respondent and found him unsuitable for promotion. If that be so, the respondent cannot be granted retrospective seniority, inasmuch as the DPC is empowered to assess the official for promotion on various yardsticks.

15. As the above issue has not been considered by the learned Tribunal and the O.A. has been allowed on misinterpretation of Rule 8(d) of the Rules as also by incorrectly applying Clause 5 of the Standing Order No.378/2009, which had no application to the facts of the present case, we have no option but to set aside the Impugned Order.

16. At this stage, the learned senior counsel for the respondent submits that the case of the respondent, by application of Rule 8(d) of the Rules in terms of the judgment dated 26.11.2010 of this Court,



needs to be considered by the learned Tribunal. We, therefore, remand the matter back to the learned Tribunal by restoring the O.A. to its original number, to consider the above O.A. afresh by keeping in view the law as settled by this Court in the above referred judgment as far as the application of Rule 8(d) of the Rules is concerned.

17. The parties shall appear before the learned Tribunal on 07.01.2026. We request the learned Tribunal to expedite the hearing of the O.A. and decide the same preferably within a period of three months from its first listing.

18. The petition is disposed of in the above terms. Pending application is also disposed of accordingly.

19. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 16, 2025/Arya/SS