



2026:DHC:3585-DB



\$~77

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5479/2026, CM APPL. 26787/2026, 26788/2026 &
26789/2026

DELHI POLICE THROUGH COMMISSIONER OF POLICE
.....Petitioner

Through: Mr. Premtosh K Mishra, CGSC
with Mr. Shrey Sharma, Mr. Anubhav
Upadhyay and Mr. Arpit Bamal, Advocates
with SI Akhilesh Tyagi, ASI Ranvir Singh,
HC Satendra Singh

versus

SANJAY TOMARRespondent

Through: Mr. Gautam Narayan, Sr.
Advocate with Mr. D. K Devesh, Advocate.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

23.04.2026

%

C. HARI SHANKAR, J.

1. This writ petition assails order dated 2 December 2025 passed by the Central Administrative Tribunal¹ in OA 2644/2024.

2. The respondent, who was the applicant in the OA, was posted as Sub-Inspector (Executive) when he applied for grant of functional rank for the post of Inspector. As he was informed, on 16 July 2022, that he had not been recommended for grant of functional rank, the

¹ "the Tribunal" hereinafter



respondent approached the Tribunal by way of OA 2644/2024.

3. Before the Tribunal, the petitioner-Union of India submitted that the case of the respondent for grant of functional rank had been considered by a Screening Committee which was held on 15 July 2022, which had decided to adopt the criteria applicable for grant of promotion in Standing Order HRD/30/2022 for grant of functional rank of Inspector to officers in the rank of Sub-Inspector. Mr. Mishra, learned CGSC appearing for the petitioner, has drawn our attention to Clauses (2)(iii) and (v) of the Standing Order which reads thus:

“(2) **PUNISHMENTS:**

(iii) Besides the disciplinary proceedings resulting in award of major or minor punishments on grounds of moral turpitude, corruption and other reasons as indicated in Para-2(i)&(ii) above, the punishment record of the officer including such punishments, as mentioned in Para-2(i)&(ii) above, during the preceding 10 years in that particular rank shall be taken into account to assess the overall performance of a candidate (with particular reference to the gravity and continuity of punishments till date.) Award of major or minor punishments on their own, as detailed in Para-2(i)&(ii) above, debars a candidate from empanelment for a specified period. In addition to the disability caused by specific acts of punishment, the cumulative punishment record of a candidate is also a relevant factor for assessing the sustainability of a candidate for a higher post. All punishments awarded during the period of 10 years preceding the year of DPC would also be taken into consideration.

(v) The officers, who have been awarded any minor punishment 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 minor punishment debarring the official for promotion shall continue, as specified here under:-



Sl. No.	Description of minor punishment	Period debaring the official for grant of promotion
1.	Minor punishment of withholding of increments	The same period for which the increment has been withheld from the date of award.
2.	Minor punishment of fine not exceeding one month's pay	6 months (from the date of award)
3.	Minor punishment of censure.	6 months (from the date of award)

4. Disciplinary proceedings for imposition of major penalty had been initiated against the respondent on 20 January 2016, on the allegation that an accused had committed suicide while in the custody of the respondent, resulting in the awarding of a penalty to the respondent, *vide* order dated 18 September 2018, of temporary forfeiture of two years' service. The respondent appealed against the said order. The appellate order dated 15 January 2019 reduced the penalty to censure. The Screening Committee was of the view that, if Clauses (2)(iii) and (v) of the guidelines contained in Standing Order HRD/30/2022 were to be applied, the respondent, having been charge sheeted for major penalty and having finally been awarded minor penalty, would thereby be rendered unfit for grant of functional rank of Inspector.

5. The Tribunal adopted the view that Clauses (2)(iii) and (2)(v) of the Standing Order had to be read harmoniously. Thus read, according to the Tribunal, more than six months having elapsed since the award of censure to the respondent, the award of censure could not constitute a legitimate basis to not grant functional rank to him. The Tribunal



2026:DHC:3585-DB



also placed reliance, while doing so, on the orders passed by this Court in *Commissioner of Police Delhi v. Sanjay Bhardwaj*².

6. Aggrieved by the aforesaid decision of the Tribunal, the Delhi Police has preferred the present writ petition.

7. We have heard Mr. Mishra, learned CGSC for the Police, and Mr. Gautam Narayan, learned Senior Counsel for the respondent.

8. Mr. Mishra submits that the case of *Sanjay Bhardwaj* is clearly distinguishable as, in that case, the punishment of censure was set aside by the Appellate Authority even before his case was considered for grant of functional rank.

9. We however queried of Mr. Mishra as to whether there was any instruction making Standing Order HRD/30/2022, which is clearly applicable only to grant of promotion, also applicable for grant of functional rank. We observe that the Tribunal noted that, for grant of MACP, such a punishment of censure could not have caused an impediment. This fact is not disputed by Mr. Mishra.

10. Mr. Mishra, on instructions, candidly acknowledges that there is no direct instruction which makes Standing Order HRD/30/2022 applicable to grant of functional rank. He however submits that the Screening Committee which considered the case of the respondent took a decision to apply the said Standing Order and, thereby, regarded the respondent unfit for grant of functional rank.

² Order dated 10 January 2024 in **W.P.(C) 16042/2023**



2026:DHC:3585-DB



11. We may not be able to subscribe to the view of the Tribunal that Clause (2)(v) of Standing Order HRD/30/2022 would operate to dilute the effect of Clause (2)(iii) of the said Standing Order. We are, however, equally unable to subscribe to the decision of the Screening Committee to consider the respondent's case for grant of functional rank on the basis of the said Standing Order. The Standing Order, quite clearly, applies only to cases of promotion. As the Tribunal has noted, for grant of MACP, this Standing Order is not applicable and a censure which was awarded more than four years prior to the entitlement of the officer could not stand in his way.

12. The Delhi Police had *inter alia* contended before the Tribunal that the scheme for grant of functional rank was later scrapped. For this purpose, Mr. Mishra has drawn our attention to a communication dated 21 July 2022 from the Home Secretary to the Commissioner of Police.

13. We have seen the said communication. All that it states is that as the scheme for conferring functional rank carried various administrative, legal and statutory issues, the orders already issued be not given effect to till the Ministry took a view. This cannot, to our mind, amount to scrapping of the scheme for grant of functional rank.

14. In any event, we need not enter into that arena as Mr. Mishra too accepts that officers whose cases had been considered prior to 21 July 2022 were considered for grant of functional rank *de hors* the said decision.



2026:DHC:3585-DB



15. Keeping in view the fact that there are no instructions which make Standing Order HRD/30/2022 applicable for grant of functional rank, and the fact that the respondent was only awarded a penalty of censure, which was also four years prior to the respondent's application for grant of functional rank, we are of the opinion that the peculiar facts of this case do not invite interference under Article 226 of the Constitution of India.

16. We reiterate that we have passed this order in the facts of this particular case, particularly given the fact that the respondent was only awarded the penalty of censure, four years prior to his entitlement of functional rank, and no specific instruction governing grant of functional rank has been brought to our notice.

17. We are not entering into the reasoning adopted by the Tribunal as, in our view, that Standing Order is not applicable.

18. We, therefore, decline to interfere in the present writ petition, which is accordingly dismissed.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 23, 2026/pa