



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.3536/2020
(S.W.P. No.2924/2002)

Wednesday, this the 9th day of December, 2020

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)

Badar Hussain, aged 40 years, S/o Sh. Hakim Din, R/o Dodasan Bala, Rajouri, Presently posted as Sub Inspector of Police (M), NGO No. 3346.

...Applicant

(Mr. Rahul Pant, Advocate)

Versus

1. State of Jammu and Kashmir, through Principal Secretary to Government, Home Department, Civil Secretariat, Jammu.
2. Director General of Police, Jammu and Kashmir State, Police Head Quarters, Jammu.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was working as Sub Inspector in J & K Police in the year 1998. In the context of promotion to the next higher post, the respondents adopted the criterion of 12 marks in the aggregate of those allotted to Annual Performance



Appraisal Reports (APARs) of the respective years, i.e., 1991-92 to 1995-96. The applicant was not up to the bench mark, and accordingly, was denied promotion. At that stage, he filed S.W.P. No.2207/1998 before the Hon'ble High Court of Jammu & Kashmir. He was not successful in the S.W.P and accordingly, he filed L.P.A. (SW) No.398/2001. A Division Bench passed an order dated 20.08.2002, directing that the APAR of the applicant for the year 1992-93, which was omitted for consideration, shall be traced out and process shall be initiated. In compliance with the same, the respondents traced out the said APAR, which was graded as 'Good'. By awarding 2 marks for that, the respondents considered the case and it emerged that the applicant secured only 9 marks even after addition of 2 marks. Accordingly, an order dated 12.11.2002 was passed by the respondents rejecting the claim of the applicant. The applicant has filed the S.W.P. No.2924/2002 before the Hon'ble High Court of Jammu & Kashmir challenging the said order dated 12.11.2002.

2. The applicant contends that the decision of the respondents cannot be treated as valid and there are instances where the promotions are made for those, who did not secure 12 marks also. It is also stated that the representation made by him in this behalf was not considered.



3. The respondents filed a detailed counter affidavit. According to them, the promotion is based on the marks secured by the candidates and that the marks are awarded in the APARs, depending on their gradation. It is stated that the applicant could secure only 9 marks as against the benchmark of 12, even after the tracing of APAR of the year 1992-93.

4. In view of re-organization of the State of Jammu & Kashmir, the S.W.P. has been transferred to this Tribunal and renumbered as T.A. No.3536/2020.

5. Today, we heard Mr. Rahul Pant, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents, through video conferencing.

6. This is the second round of litigation by the applicant in the context of promotion to the next higher post. The promotion took place way back in the year 1997. He was not promoted on account of the fact that he did not secure 12 marks in the aggregate. The respondents have fixed parameters for awarding the marks, such as, if the gradation is 'Good', 2 marks are awarded and if it is below that, no marks are awarded. The applicant filed S.W.P. No.2207/1998 and since the judgment rendered therein was not to his satisfaction, he filed L.P.A. (SW) No.398/2001. Their Lordships in the Division Bench took note of the fact that the APAR of the applicant for the year 1992-93 was not taken into account on the ground that it was not



available. Therefore, the direction was issued for tracing the said APAR, through order dated 20.08.2002. In compliance with the same, the APAR was traced and it reflected the gradation of 'Good'. In terms of the policy, 2 marks were awarded for that APAR. Even thereafter, the applicant secured only 9 marks, which are as under:

"1991-92	B	=	2 marks
1992-93	B	+	2 marks
1993-94	C	=	No marks
1994-95	B	=	2 marks
1995-96	B	=	2 marks
Length of service	5 yrs	=	1 mark
Total		=	9 marks

7. Once the applicant fell short of 3 marks for promotion for inclusion of his name in list 'E', there is no way that he can be granted any benefit. Though the applicant has stated that he was entitled to be added some more marks, he is not able to substantiate the same. The respondents cannot deviate from the procedure.

8. We do not find any merit in this T.A. It is accordingly dismissed. There shall be no order as to costs.

(A K Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

December 9, 2020

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