



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.4155/2020
(S.W.P. No.2279/2003)

Friday, this the 15th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Tirth Ram S/o Basant Ram, R/o Kishtwar Town,
Presently: Head Constable No.29/3, Distt. Police Line,
Jammu

..Applicant
(*Nemo* for applicant)

Versus

1. State of Jammu and Kashmir, through Principal Secretary to Government, Home Department, J&K Government, Civil Secretariat, Jammu.
2. Commissioner Secretary, Home Department, Civil Secretariat, Jammu
3. Director General of Police, J&K Govt. Jammu
4. Inspector of Police, Jammu Zone, Jammu.
5. D.I.G. of Police, Jammu-Udhampur Range, Udhampur.
6. Senior Superintendant of Police, District Doda, Doda.

..Respondents
(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant was appointed as Constable in District Police Doda in the year 1978. He became due for promotion in the post of Head Constable in the year 1993. However, on account of pendency of the disciplinary proceedings, he was not



considered by the Departmental Promotion Committee (DPC) conducted on various dates. Ultimately, almost as a compassionate measure, the special DPC was convened to consider the case of the applicant and vide order dated 27.05.2002, he was promoted to the post of Head Constable with prospective effect. It was made clear that the applicant will not be entitled for monetary benefits due to his pre-date promotion. Aggrieved by this, he filed SWP No.2279/2003 before the Hon'ble High Court of Jammu & Kashmir for a writ of *mandamus* directing the respondents to release the benefit of promotion with effect from the date on which his juniors were promoted. Ancillary reliefs were also claimed.

2. The respondents filed a detailed counter affidavit. According to them, the denial of promotion to the applicant, when his juniors were considered, was on account of pendency of disciplinary proceedings and imposition of punishment. It was also stated that the order, directing that a particular length of his service shall be treated as *dies non*, was also passed denying the benefit of service anterior to those dates.

3. In view of re-organization of the State of Jammu, the SWP has since been transferred to this Tribunal and registered as T.A. No.4155/2020.



4. Today, there is no representation from the applicant and we heard Mr. Sudesh Magotra, learned Deputy Advocate General, through video conferencing.

5. The applicant, no doubt, became eligible to be considered for promotion in the year 1993 by virtue of his seniority. However, on application of relevant parameters, he lost the opportunity, as he was not found fit. It was only in the year 2001, that a decision was taken to convene a special DPC in case of the applicant, as a compassionate measure. As a result of that, he was promoted to the post of Head Constable, through order dated 27.05.2002. The exercise undertaken in this behalf is mentioned in paragraph 5 of the O.A., which reads:

“5. In reply to the facts stated in para Nos. 8, 9, 10 and 11, it is respectfully submitted, as stated in great detail in the preceding paras submitted that the petitioner in view of his recommendation vide his Order No.464/93 dated 12.8.1993 and his period of absence was treated as dies non.

It is further respectfully submitted, as stated in great detail in the preliminary paras, it was not only in the matter which was pending before the Inquiry Officer in 1993 that the petitioner's period of absence treated as dies non however, in the year 1994 itself he was again placed under suspension and was facing enquiry/trial from which he was exonerated only in the year 1999. As submitted in great detail in the preceding paras, the case of the petitioner was placed before the D.P.C. every time it met for considering promotion to the post of Selection Grade Constable however it was on account of reasons submitted hereinabove that he was not promoted. The contention projected by the petitioner that it was only on account of non-communication of the out come of the enquiry that the case of the petitioner was not considered is contrary to the facts and has been made merely to mislead this Hon'ble court.”

Item No.8



6. In the same counter affidavit, details of punishment proposed against the applicant are also mentioned. In view of the circumstances under which, the applicant was promoted, the question of granting monetary benefits, on par with his juniors, does not arise.

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

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 15, 2021

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