

CENTRAL ADMINISTRATIVE TRIBUNAL JAMMU BENCH, JAMMU



Hearing through video conferencing

T.A./61/5809/2020

This the 06th day of August, 2021

**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)**

Rajpal Singh, aged 34 years, S/o Janak Singh, R/o Chhanni Rama, Jammu, serving as Head Constable, PID No. EXX-901757C.

.....Applicant

By Advocate: Mr. Pranav Kohli, Sr. Advocate
Mr. Farhan Mirza

Versus

1. State of Jammu & Kashmir through Commissioner-cum-Secretary to Government, Home Department, Civil Secretariat, Jammu.
2. Director General of Police, J&K Police, PHQ, Jammu.
3. Inspector General of Police, Kashmir Zone, Srinagar.
4. Superintendent of Police (Operations), Kashmir.

.....Respondents

By Advocate:- Mr. Amit Gupta, A.A.G.

O R D E R

Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member (J):

The applicant has filed the present TA seeking following main reliefs: -

- “i. Writ of certiorari seeking quashment of the Order bearing No. 2836 of 2017 dated 25.08.2017 by virtue of which the claim of the petitioner for out of turn promotion on the analogy of similarly situated candidates has been rejected.
- ii. Writ of Mandamus commanding upon the Respondents to grant the benefit of out of turn promotion on account of his

performance in eliminating/nabbing the militants during his service with Special Operation Group and as per recommendations of the then Sr. Superintendent of Police vide Communication No. SOG/Sgr./99/343 dated 11th February, 1999 and endorsement by Inspector General of Police, Kashmir Zone, Srinagar vide communication bearing No. CS/Estt./P-SOG/99-944, dated 19th February, 1999.

2. The case of the applicant is that he joined Special Operation Group (in short SOG) on 07.05.1997 which involves anti militancy operations. During his service in SOG, the applicant was associated with many operations leading to arrest and killing of hard core militants as well as recovery of arms and ammunition. The applicant participated in so many anti militancy operations during the period from 24.09.1998 to 03.02.1999. It is also the case of the applicant that the then Superintendent of Police, Hqrs, SOG, Srinagar vide letter dated 11.02.1999 addressed to Inspector General of Police, Kashmir Zone, Srinagar, recommended the case of the applicant for out of turn promotion to the post of Head Constable in SOG. The said recommendation was forwarded to the DGP, which was rejected by the respondents vide Order No. 1306/2013 dated 15.05.2013.

3. The applicant pleads that vide order No. 3316 dated 08.10.1998, out of turn promotion has been granted to the constables similarly situated to the applicant. The applicant moved a representation against the

rejection of his claim for out of turn promotion, which was rejected vide Order No. 2836/2017 dated 25.08.2017 on the ground that the applicant has no consistent performance on operational front from 03.02.1999 and since there has not been consistency in his anti militancy operations, therefore, he does not deserve for out of turn promotion. Hence, the present TA has been filed seeking quashment of the impugned order on the ground that the order dated 25.08.2017 is based on flimsy grounds and shows non-application of mind to the case of the applicant, as projected by the SP and IGP to the DGP.

4. In the counter affidavit, it has been averred that the applicant did not have outstanding performance in anti militancy operations, as adjudicated by PED, and as such he was rightly not granted out of turn promotion.

5. We have heard Mr. Pranav Kohli, Sr. Advocate assisted by Mr. Farhan Mirza, learned counsel for the applicant and Mr. Amit Gupta, AAG, learned counsel for the respondents and have gone through the material on record.

6. A perusal of recommendation of SP and IGP reveals that they had recommended the case of the applicant for out of turn promotion on the basis of his performance in anti militancy operations w.e.f. 24.08.1998 to 03.02.1999 but apparently in the impugned order, the authority has

rejected the claim of the applicant for out of turn promotion on the ground that since the last anti militancy operation on 03.02.1999, the applicant has no consistent performance on operational front. However, the SP and IGP concerned had recommended the case of the applicant for out of turn promotion on the basis of his performance in anti militancy operations during 1998-99. In this background, we are of the opinion that the case of the applicant has not been considered in right perspective, therefore, it requires reconsideration by the authority concerned.

7. In view of the facts and circumstances, as discussed above, the impugned order dated 25.08.2017 is set aside. The case of the applicant is remitted to the authority concerned amongst the respondents to reconsider the case of the applicant for out of turn promotion in accordance with rules, within a period of two months from the date of receipt of certified copy of this order. The decision so taken by the respondents shall be communicated to the applicant forthwith.

8. With the above directions, the OA is disposed off.

9. There shall be no order as to costs.

(ANAND MATHUR)
MEMBER (A)

(RAKESH SAGAR JAIN)
MEMBER (J)

Anand...