



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.5013/2021
(S.W.P. No.819/2009)

Thursday, this the 20th day of May, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)

Baraf Singh,
Age 45 years,
S/o Shri Hans Raj,
R/o Vill. Raie Suhanda,
Tehsil and District Doda
At present Const. no.399/IR
VithBn, PID No.ARP-012810.

..Applicant

(Nemo for applicant)

VERSUS

1. State of Jammu and Kashmir through
Secretary/Commissioner Home Department,
J&K Govt. Jammu.
2. Director,
General of Police, J&K, Jammu.
3. Inspector General of Police (Armed),
J&K, Jammu.
4. Commandant, 6thBn (IRP) Jammu.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

**ORDER (ORAL)****Justice L. Narasimha Reddy:**

The applicant was selected as a Constable in the 6th Bn.in the Indian Reserve Police (IRP) in Jammu &Kashmir in the year 1999. However, at the stage of joining of duty, after he was imparting training, it was noticed that an FIR No.35/1997 was pending against him in the Police Station Bhadarwah. When he was not permitted to join the duty, the applicant filed SWP No.790/2000 before the Hon'ble High Court of Jammu &Kashmir. The SWP was allowed on 17.11.2000, directing that the applicant shall be permitted to join the duty notwithstanding the pendency of FIR and in case he is found to be eligible, his seniority shall be reckoned with reference to the date of joining of his junior. The applicant was issued an order of appointment on 22.03.2001.

2. The applicant filed SWP No.819/2009 before the Hon'ble High Court, complaining that the respondents did not assign the correct seniority and thereby he was denied the promotion to next higher post. He prayed for a direction to the respondents to assign him the correct seniority and to consider his case for promotion to the next higher post, on the basis of the seniority so fixed.

3. The applicant contends that once the Hon'ble High Court issued directions in the earlier SWP that this seniority shall be



reckoned with reference to the date on which his junior joined, there was no basis for the respondents in counting his seniority only from the date of order of his appointment.

4. The respondents filed a detailed counter affidavit. According to them, the persons, who are selected in the year 1999, were imparted training in the BRTC, in the year 1999 itself, whereas in the case of the applicant, it was in the year 2001-2002. According to them, the seniority, even at the initial stage, is determined by taking into account, the ranking assigned by the recruiting agency on the one hand; and the marks secured by the candidates in the BRTC, on the other hand. They contend that the applicant was trained one year later and as such he has not been compared with persons, who are imparted training and joined in the year 1999 or 2000.

5. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.5014/2021.

6. There is no representation for the applicant. Since this is one the oldest cases, we perused the record and heard Mr. Sudesh Magotra, learned Deputy Advocate General.

7. The applicant was initially recruited as a Constable in the CRPF. The reasons on account of which he left that organization and took part in the selection for the post of Constable in IRP, are not before us. The fact remains that though he was selected in IRP in the year 1999, he was not issued the order of appointment



on the ground that an FIR was pending against him. He approached the Hon'ble High Court by filing SWP No.790/2000. By citing certain reasons, the Hon'ble High Court directed that in case the applicant is found eligible to be appointed, he shall have the benefit of seniority from the date, the person below him in the merit list was allowed to join. The applicant contends that the benefit of the directions issued by the Hon'ble High Court was not extended to him.

8. The case presents a somewhat peculiar situation. In the ordinary course, whenever a person is selected, he is assigned the seniority on the basis of the ranking assigned by the selecting agency. However, in the case of Police Constable, the seniority is determined by taking into account, the ranking assigned by the selecting agency on the one hand and marks secured by the candidates in the training on the other. One way of looking at the issue is that notwithstanding the fact that the applicant came to be imparted training in a subsequent batch, his seniority must be reckoned with reference to the date on which his junior in the selection process was appointed. Whatever would have been the justification in extending that relief, the recent judgment of Hon'ble Supreme Court in **K. Meghachandra Singh v. Ningam Siro** (Civil Appeal Nos.8833-8835 of 2019 & batch) decided on 19.11.2019 comes in the way of the applicant. Their Lordships held that under no circumstances, a person can claim seniority anterior to the date on which he is appointed. In



the instant case, the applicant was appointed on 22.03.2001, whereas his other batchmates were appointed in the year 1999 itself. Therefore, he cannot be assigned the seniority from 1999.

9. Another aspect is that the applicant secured marks in the training only in the year 2001. His marks in the training have to be added, to the ranking assigned by the selecting agency. This exercise would result in comparison with the persons, who had completed training along with the applicant. He cannot insist on the marks in the training, which he has undergone in the year 2001, to be added in the ranking assigned by the selecting agency with reference to the candidates, who were appointed in 1999 itself. At any rate, if the applicant was of the view that the steps taken by the respondents are contrary to the judgment of Hon'ble High Court, the course open for him was to file a contempt case. He did not do that.

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

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 18, 2021
/sunil/rk/sd/