

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 107/2005

This the 16th day of December, 2009

Hon'ble Ms.Sadhna Srivastava, Member (J)
Hon'ble Dr.A.K. Mishra, Member (A)

Ashok Kumar Singh aged about 62 years son of late Sri Gulzari Lal R/o B-3/5, Vishal Khand, Gomti Nagar, Lucknow.

Applicant

By Advocate: Sri B.B. Nigam

Versus

1. Chief Secretary, U.P. Shasan, Lucknow.
2. State of U.P., through Principal Secretary, Department of Home Affairs, Uttar Pradesh Shashan, Lucknow.
3. Director General of Police, U.P. Kalidas Marg, Lucknow.
4. Union of India, through Secretary, Ministry of Home Affairs, North Block, New Delhi.

Respondents

↳ brief holder of Sri G.K. Singh
By Advocate: Sri S.P. Singh and Sri A.K. Chaturvedi.

ORDER

Hon'ble Ms. Sadhna Srivastava, Member (J)

The applicant seeks quashing of the order dated 6.12.2004 of the Department of Home of U.P. Govt. communicating the decision of D.P.C. held on 28.9.2004 to the effect that he has not been found fit for promotion to the post of Additional Director General, Police by DPC held on three occasions i.e. 7.12.2000, 31.3.2001 and 29.7.2002.

2. The facts are that the applicant was appointed to Indian Police Service, U.P. Cadre w.e.f. 16.7.1971 and was confirmed w.e.f. 4.10.73. He was granted selection grade w.e.f. 1.1.84. Thereafter, the applicant's career was marred by departmental proceedings and criminal proceedings. In the first instance, the proceedings under Rule 10 of the All India Service (D&A) Rules, 1969 initiated vide Govt. Order dated 24.12.87 culminated in punishment of Censure through order dated 25.2.91. Criminal prosecution sanctioned vide order dated 18.10.86 was quashed.

by High Court, Uttranchal through judgment and order dated 20.4.2004. Thirdly, proceedings under Rule 10 of All India Service (D&A) Rules, 1969 initiated through office Memo dated 25.9.2000 were closed vide office order dated 27.5.2003. In the meantime, the applicant retired on 31.1.2003. On account of the above proceedings, he was given adhoc promotion in the super time scale on the post of D.I.G.. w.e.f. 4.7.91. The promotion on the post of I.G. Police w.e.f. 25.5.95 was also provided on adhoc basis. The applicant had also filed O.A. No. 31/95 and 343/2000 for regular promotion on the post of DIG and IG, Police. Lastly, the applicant filed O.A. No. 432/2001 seeking promotion to the post of Addl. Director General of Police which was allowed on 6.7.2004 with direction to open the sealed cover and if found fit to grant him promotion with consequential benefits. Pursuant to the said decision, DPC was convened on 28.9.2004 which opened the sealed cover adopted in the meetings of DPC dated 7.12.2000, 31.3.2001 and 29.7.2002 to declare the result about the promotion of the applicant to the post of Addl. Director General of Police. On opening the sealed cover, it was found that in the meetings of aforesaid three DPCs, the applicant was not found fit for promotion to the post of Addl. Director General of Police. Consequently, DPC dated 28.9.2004 recommended to the Govt. that notwithstanding the exoneration, the applicant was not fit for promotion. It is on the basis of findings of the said DPC dated 28.9.2004 that the impugned order dated 6.12.2004 has been communicated to the applicant.

3. The respondents have narrated the facts as they happened in their counter reply.

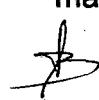
4. We have heard the learned counsel for the parties and perused the record.



5. The Apex Court, time and again, has laid down the law as to the power of courts/Tribunal to interfere with the proceedings of the selection committee. The law has been reiterated in the case of ***M.V. Thimmahah and others Vs. Union Public Service Commission and others reported in (2008)2 Supreme Court Cases 119.*** Hon'ble Supreme Court inter-alia, has laid down as follows:-

"Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine recommendations of the Selection Committee like court or appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine selection of candidates nor is it the business of court to examine each candidate and record its opinion."

6. On perusal of the grounds, we find that sweeping allegations have been made that the decision not to promote him was arbitrary. It has not been pointed out that the proceedings of various DPCs were vitiated by malafides or they were held in breach of statutory rules. In fact the applicant is seeking a decision from the Tribunal that he was fit for promotion. We are constrained to say that such jurisdiction is not vested in us. The scope of judicial review is limited. We are only required to examine whether the recommendations of the DPC were vitiated by malafides or apparent error or violation of statutory rules. We have also to judge that allegations of malafides if levelled have been substantiated or not because such allegations are made by a person who has a vested interest. This Tribunal , has



-3-

no other jurisdiction. Therefore, we are of the considered opinion that there is no scope for our interference.

7. Resultantly, the O.A. is dismissed without any order as to costs.

Alpesh 29/12/08
(Dr. A.K.Mishra)

Member (A)

Sadhna Srivastava
(Sadhna Srivastava)
Member (J)

HLS/-