

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

O.A. No. 550 of 1996

DATE OF ORDER : 21/03.2000

Jaishankar Das, son of Sri Jeoraj Das, at present posted as Additional Superintendent of Police, Sahebganj, P.S. Sahebganj, District - Sahebganj.

.....APPLICANT.

By Advocate Shri S.P. Mukharjee.

Versus

1. The Union of India through the Secretary, Ministry of Home, Government of India, New Delhi.
2. The State of Bihar through the Home Secretary, Home Department, Old Secretariate, Government of Bihar, Patna.
3. The Secretary and the Commissioner, Personnel Administrative Reform Department, Old Secretariate, Government of Bihar, Patna.
4. The Director General of Police, Government of Bihar, Old Secretariate, Patna.

.....RESPONDENTS.

By Shri H.P. Singh, Addl. Standing Counsel for U.O.I. & Shri B.N. Yadav, the Standing Counsel for State of Bihar.

C O R A M

Hon'ble Mr. Justice S. Narayan, Vice-Chairman
Hon'ble Mr. L. Hmingliana, Member (A).

O R D E R

L. Hmingliana, Member (A):-

The applicant was an officer of Bihar Police Service (in short BPS), and he has since retired after filing the OA. His prayer is for promotion to the IPS with effect from 15.07.1984.

2. He joined the BPS as Dy. Superintendent of Police (in short Dy.S.P.) on 15.07.1974, and he was promoted as Additional S.P. on 15.07.1984. Then

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he got adverse remarks in his ACRs as follows:

(i) For 1984-85 adverse remarks were expunged later on his representation.

(ii) For 1985-86 adverse remarks were communicated to him as late as 15.03.1988, which date is also mentioned as 05.03.1987 at other place of the OA. His representation against the adverse remarks was rejected and the rejection was conveyed to him by letter dated 27.01.1989. Then he submitted memorial on 06.02.1989, but it was also rejected, without, however, conveying to him the order of rejection.

(iii) For 1986-87, adverse remarks were communicated to him by letter dated 28.5.1987. Then the departmental inquiry was initiated against him on the charges which were similar to the adverse remarks he was given for the year 1986-87. Shri Ashish Ranjan Sinha, I.G. of Police was appointed as inquiry officer. The inquiry officer submitted his findings that he was not guilty, and he was supplied with copy of the inquiry report by letter dated 11.1.1995. No final order has been passed on the inquiry report.

3. It is the case of the applicant that it was because of the institution of the departmental inquiry that he was deprived of his due promotion to the IPS. He filed CWJC No. 882/92 in the Patna High Court challenging the orders dated 16.3.1986 and 31.12.1986.




The High Court by its order dated 6.8.1992 disposed of the CWJC with observation that "the matter of recruitment to any civil service posts falls exclusively within the jurisdiction of the Central Administrative Tribunal, and, "therefore this writ application is not maintainable, and the petitioner may file application before the Central Administrative Tribunal." The High Court also observed that the petitioner (applicant in the present matter) " has also prayed for expunction of the adverse remarks passed against him , and also for quashing the departmental proceedings. In relation to these grievances, the petitioner may file a separate writ application in this court.

4. It is the case of the applicant that he was due for promotion to the IPS with effect from 15.7.1984, and that it was because of the institution of the departmental inquiry against him that he could ~~be~~ not be promoted on that due date, even though his batchment in the BPS and even his juniors were promoted to the IPS.

5. The written statement has been filed on behalf of the respondents/ No. 2 which is State of Bihar. Unfortunately, there is no statement either in the OA or in the written statement as to whether the case of the applicant for inclusion in the select list for promotion to the IPS was referred to the Selection

Committee under the IPS appointment by promotion rules. However, it is not denied in the written statement that the applicant was due for consideration for promotion to the IPS on 15.7.1984, but it is stated that the applicant was not found fit for promotion because of the adverse remarks he got in his ACRs for the year 1984-85, 1985-86 and 1986-87. It is also contended in the written statement that even though the adverse remarks for the year 1984-85 were expunged, but the grading of the applicant on the basis of his ACRs was average, which was not adverse, but not sufficient for his promotion. As regards the statement in the OA that no final order was passed on the report submitted by the inquiry officer in the departmental inquiry, it is stated in the written statement that the final order was passed, and the applicant was awarded punishment of warning. Here again, the date of institution of the departmental inquiry has not been given in the OA or in the written statement, and the applicant has not even produced a copy of the charge sheet. The date of the final order of punishment after the departmental inquiry is given as 8.8.1996, which long after the applicant would be within the zone of consideration for inclusion in the select list for promotion to the IPS. It is also stated in the written statement that the applicant

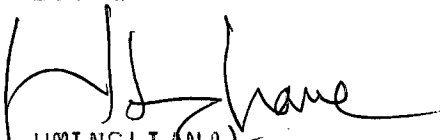


has since retired from service, and the date of retirement is differently given as 1.9.1998 in paragraph 33 and as 1.1.1998 in paragraph 34.

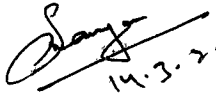
6. The applicant would have been within the zone of consideration for inclusion in the select list for appointment to the IPS in 1984, it is apparant from the statement in the OA itself that his grading would be not upto the mark, and no case has been made for grant of relief to the applicant.

7. The application is dismissed. There shall be no order as to costs.

/CBS/


(L. HMINGLIANA)
MEMBER (A)




(S. NARAYAN)
VICE-CHAIRMAN