

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 622 of 2001

Jabalpur, this the 27th day of July, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Dr. Brajesh Kumar Sharma
aged about 60 years, Occupation
Service-Indian Police Service
Dy Inspector General of
Police(Fire Services),
Indore

APPLICANT

(By Advocate- Shri Manoj Sharma)

VERSUS

1. Union of India through
Secretary, Deptt. of
Home(Police) New Delhi.
2. State of M.P. through
Secretary,
Department of Home
(Police), Mantralaya,
Vallabh Bhawan,
Bhopal.
3. Shri V.Wate, Inspector General of Police,
Dy Transport Commissioner, M.P.
Gwalior(M.P.)
4. M.L. Rane, Inspector General of Police
Through the Director General of Police,
M.P. Police H.Qs. Jahangeerabad,
M.P., Bhopal.
5. Shri Shiv Shankerlal,
Inspector General of Police,
Through Director General of Police
M.P. Police H.Qs., Jahangeerabad,
M.P. Bhopal, M.P.

RESPONDENTS

(By Advocate - Shri K.N. Pethia for respondent No.1
Shri Om Namdeo for respondent No.2
None for private respondents.)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this OA, the applicant has sought the
following main reliefs :-

"ii) issue a writ in the nature of certiorari
quashing the impugned order dated 10.7.2001.

iii) issue a writ in the nature of mandamus
commanding the respondents to place on record
the proceedings of DPC which has considered the
promotion of the petitioner and also Shri V.K. Wate,
M.L. Rane and H.C. Lal, to the post of I.G.Police".

2. The brief facts of the case are that the applicant was selected for the State Police Service in the year 1972. He was inducted into the Indian Police Service (for short 'IPS') in 1986 and was allotted 1981 as the year of allotment. In the gradation list he is senior to S/Shri V.K.Wate (1981 batch), M.L.Rane (1981 batch) and S.C.Lal (1982 batch), respondents 3 to 5 respectively. According to him, the State Government of Madhya Pradesh issued promotion order to the post of Inspector General of Police on 10.7.2001 whereby respondents 3 to 5, namely, S/Shri V.K.Wate, M.L.Rane and S.C.Lal have been promoted from the post of Deputy Inspector General of Police to Inspector General of Police. The applicant who is senior to all these officers has not been promoted. Aggrieved by this he has filed this O.A. claiming the afore-mentioned reliefs.

3. Heard the learned counsel for the applicant and respondents 1 & 2.

4. The learned counsel for the applicant has stated that the applicant while he has all through been given outstanding reports and it is because of his outstanding record he has been awarded the President's Medal in the year 1998. He has also stated that when the applicant was the Superintendent of Railway Police at Indore, there was an unfortunate incident in Police Station G.R.P.Neemuch (which was under his jurisdiction) where certain police officers had misbehaved with an Advocate. Departmental action was taken against the guilty police officers in the matter. The applicant was required to submit a report to the Sessions Judge, Ratlam in the matter. On 14.9.1995 the applicant submitted a report informing that an offence under Section 220 of the IPC will be registered against the guilty police staff, as the offence was non-cognizable. The applicant had sought guidance from his superior officers viz. Deputy Inspector General, Railways and Additional Deputy General of Police, Railways, by sending communication, so that on receiving proper instructions, steps could be taken for registration of the said offence. However, no guidance was received by the applicant. In the

meantime the applicant ~~was~~ got busy in other matters and thus the offence under Section 220 of the IPC remained to be registered against the concerned police officers. A show cause notice was served on the applicant on 30.5.1998 in the matter of non-registration of the offence. The applicant submitted a reply taking full responsibility of the matter. Ultimately, after taking the opinion of the UPSC, the State Government passed an order of censure against the applicant. According to the applicant the penalty of censure has been imposed on the applicant on 17.9.1998 with regard to the applicant's conduct in the year 1995, more so working as Superintendent of Police. Under the Promotion Regulations, the DPC has to consider the ACRs of the applicant and all other officers in the zone of consideration for last five years. Therefore, the DPC has to consider the evaluation of the ACRs for the period 1996 to 2000. Moreover, the applicant has earned promotion to the post of Dy. Inspector General of Police w.e.f. 26.6.1996, therefore, the applicant's conduct as Superintendent of Police cannot be taken into consideration for the purpose of applicant's promotion to the post of Inspector General of Police. The applicant has also been awarded the President's medal for his meritorious services.

5. On the other hand the learned counsel for the respondents has stated that the promotion to the post of Inspector General of Police is governed by the rules framed by the Central Government in exercise of powers conferred by Sub-section (1) of Section 3 of All India Services Act, 1951. The post of Inspector General of Police is in Super Time Scale and promotion to the said post is made in accordance with Rule 3(2A) of Indian Police Service (Pay) Rules, 1954 which stipulates that -

"Appointment to the Selection Grade and the posts carrying pay above the time scale of pay in the Indian Police Service shall be made by selection on merit with due regard to seniority".

A selection committee was constituted to recommend promotion of IPS officers belonging to 1981 and 1982 batch. The committee



held its meeting on 9.7.2001. The applicant was within the zone of consideration and was duly considered by the said Selection Committee and after adhering to the principles laid down by the Central Government, the said Committee did not find the applicant eligible for promotion to the post of Inspector General of Police and did not recommend his name. According to the respondents, it is not correct to allege that the applicant has been superseded because of the malafide intention on the part of the respondents. They have further stated that since the promotion to the post of Inspector General of Police is made on the basis of merit-cum-seniority, the said Selection Committee had strictly adhered to the principles laid down by the Central Government vide notification dated 15.1.1999 and did not deviate from the same while considering the IPS officers of 1981 and 1982 batch.

6. We have given careful consideration to the rival contentions made on behalf of the applicant and official respondents. We find that the applicant, who was initially recruited to the State Police Service, was inducted into IPS in the year 1986 while he was allocated the 1981 as the year of allotment. He has been considered for the post of Inspector General of Police along with other officers including private respondents 3 to 5. The post of Inspector General of Police is in Super Time Scale and is required to be filled up on the basis of merit-cum-seniority. A Selection Committee was constituted to make selection of IPS officers of 1981 and 1982 batch for promotion to the post of Inspector General of Police and the Selection Committee held its meeting on 9.7.2001. On the basis of record of the applicant as well as private-respondents 3 to 5, the Committee did not recommend the name of the applicant, who was senior in the consideration zone, but recommended the name of private-respondents 3 to 5 strictly on the basis of the ACRs.



7. On our directions the official-respondents have produced the ACR dossier of the applicant as well as private-respondents. We have perused the confidential reports of all the officers and we find that the applicant has been communicated adverse remarks which were later on expunged. The applicant has also been issued show cause notice for dereliction of his duties and ultimately he has been imposed On the basis of the penalty of 'censure'. the record of the applicant, we find that the Selection Committee has rightly not recommended the name of the applicant. As the private-respondents have better records as compared to the applicant, no illegality has been done in recommending the name of private respondents. In this view of the matter, we do not find any ground to interfere with the action taken by the respondents in promoting respondents 3 to 5. We also find that the contention of the applicant that he has got outstanding reports and has meritorious service record on the basis of which he has been awarded the President's medal is not correct.

8. In the result, the OA is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

rkv.

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रतिलिपि अधिकारी:-

(1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर

(2) आवेदक श्री/श्रीमती/कु. के काउंसल

(3) प्रत्यर्थी श्री/श्रीमती/कु. के काउंसल

(4) बंगलाल, के प्राम., जबलपुर न्यायपीठ

संघना एवं आवश्यक कार्यवाही हेतु

M. Shrivastava
KN Pathak
Om Prakash

15/2/84
अध. रजिस्ट्रार

Issued
On 5/6/84