

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00913/18

Reserved on: 28.05.2019
Date of Order: 31.05.2019

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Vivekanand (IPS), Son of Late Binodanand Sharma, Resident of Village- Pairu Mandal Tola, PO- Bariarpur, PS- Bariarpur, District- Munger, Pin Code- 811211 (Bihar), Residing at Flat No. 18/60, Officers Flat, Bailey Road, PO- Sachivalaya, PS- Kotwali, Town & District- Patna, Pin Code- 800015 (Bihar).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna, Pin Code- 800015 (Bihar).
2. The Principal Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna, Pin Code- 800015 (Bihar).
3. The Special Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna, Pin Code- 800015.
4. The Commissioner (Home), Department of Home, Government of Bihar, Old Secretariat, Patna, Pin Code- 800015.
5. The Secretary, Department of Personnel & Administrative Reforms, Government of Bihar, Old Secretariat, Patna, Pin Code- 800015 (Bihar).
6. The Director General of Police, Government of India, Old Secretariat, Patna, Pin Code- 800015 (Bihar).
7. The Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Pin Code- 800001 (Bihar) through its Chairman.
8. The Chairman, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Pin Code- 800001.

.... Respondents.

By Advocate: - Mr. Shekhar Singh

O R D E R

Per Dinesh Sharma, A.M.:- The instant OA has been filed seeking an appropriate direction upon the respondents to grant promotion in favour

of the applicant to the post of Staff Officer in the Pay Band 4 Grade Pay of Rs. 8700/- in the cadre of Bihar Police Service along with monetary benefits as the said promotion was due much before 08.04.2015, i.e. before his induction into the Indian Police Service. According to the applicant, this is being denied to him on account of his induction in the Indian Police Service. However, a number of officers of the State Police Service have been granted promotion to the said post of Staff Officer even after their induction in the cadre of IPS. The applicant had filed CWJC No. 6458/2017 before the Hon'ble High Court of Patna claiming the same relief. However, since the matter falls within the jurisdiction of this Tribunal the said petition was withdrawn with liberty to move before the appropriate forum. Hence, this OA.

2. The respondents have filed their written statement in which they have denied the claim of the applicant. According to them, the request of the applicant has not been denied just because of his having been inducted in the IPS but because though he was in the zone of consideration he never actually got selected by the concerned Departmental Promotion Committee in the relevant years, before his promotion to IPS and officers senior to him were promoted to the available vacancies. The cases of other officers cited by the applicant are not similar to this case. All the persons who were promoted in the past after being inducted into IPS were given the benefit of promotion as Staff Officer from a past date when vacancies were available and they happened to be the seniormost person to fill those vacancies. Regarding the older cases (of 1997 quoted by the applicant) it is

stated that the State Government had abolished, by resolution dated 08.02.1999, the existing facility of time bound promotion and, therefore, such past cases cannot be treated as similar to that of the applicant.

3. The applicant has filed a rejoinder in which he has reiterated his earlier arguments. According to him, the only 'mute' question in this case is whether a person upon induction into IPS can be deprived the benefit of promotion to the post of Staff Officer. He has again quoted the instances of persons such as Shatrughan Prasad Singh, Vishwanath Ojha and Ramanand Prasad who got their promotion as Staff Officer by order dated 01.07.1997 though they were inducted into the IPS cadre in the year 1992. Besides these, he has quoted names of Shri Manohar Prasad Singh, Shri Meghnath Ram, Shri Jay Prakash Narayan Singh and Shri H.N. Deb who were given promotion as Staff Officer by order dated 22.03.2007 though they were inducted into IPS before that date.

4. The respondents have filed a supplementary written statement to again deny the averments of the applicant. They have reiterated what they mentioned in their written statement, i.e. the applicant was not entitled for promotion as Staff Officer before his induction into the IPS because of there being officers senior to him available to fill the available vacancies of Staff Officer.

5. After having gone through the pleadings and hearing the learned counsels for both the parties, it is clear that the applicant has not been denied promotion as Staff Officer only because of his induction into IPS but because of his not being able to be selected for this job on account

of officers senior to him being available for selection to the available vacancies . This puts his case on a footing different from the names of officers quoted by him since he has not been able to show that they were promoted despite there being no vacancies. The OA, therefore, fails and is dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member