

(2000) 09 AHC CK 0049
In the Allahabad High Court
Case No : C.M.W.P. No. 10933 of 1998

Ashok Rana

APPELLANT

Vs

Home Secretary, U.P. and others

RESPONDENT

Date of Decision : 08-09-2000

Acts Referred:

Citation : (2000) 4 AWC 2889 : (2000) 3 UPLBEC 2324

Hon'ble Judges : S.R. Singh, J

Bench : Single Bench

Advocate : J.S. Tomer, A.R. Srivastava and Ishan Shishu, for the Appellant;

Judgement

S.R. Singh, J.—Petitioner, a Sub-Inspector of Police, was commended by the Senior Superintendent of Police vide letter No. 447/96 dated 24.1.1997 and subsequent letters dated 31.3.1997 and 27.3.1997 for out-of-turn promotion for displaying exemplary courage and bravery in the course of a police encounter in which notorious dacoit Devesh alias Pappu Misra son of Pratap Narain Misra and his accomplice Ram Pal fell to the police bullets. The matter was processed for go-ahead at the end of the Dy. Inspector General of Police, Kanpur Range. Kanpur, the next in the hierarchy, who subscribed to the recommendations for out-of-turn promotion by means of the letter dated April 29. 1997 addressed to the Inspector General of Police. Kanpur Zone, Kanpur. The recommendations received approval of the Inspector General of Police, Kanpur Zone, Kanpur, too who after examining the matter qua the reports of the Sr. Supdt. of Police, Farukhabd and the Dy. Inspector General of Police, Kanpur Zone. Kanpur. scripted his own recommendations that the petitioner was entitled to be given out-of-turn promotion vide letter dated 27/28.5.1997. The relevant portion of the recommendation made by Inspector General of Police, Kanpur Zone, Kanpur, is excerpted below :

^^?i;k iqfyl mi&egkfujh{k d kuiuq ifj{ks=} d kuiuq ds v"kk- i=kad lh- vks- ,lh- 1&135 ?2?&97@10337 fnukafdr 29 viSy] 1997 layXudksa lfgr Nk;k izfr layXu ?? kjk izsfZ"kr tuin Qrsgx<+ dh iqfyl ikVhZ }kjk fnuk?d 22-11-1995 dks tuin

Qrsgx<+ ds dq[;kr MdSr nsos"k mQZ iIiw feJk iq= Jh izrki ukjk;.k feJk o mlds ,d lkFkh jke iky dh fnu&ngkM+s viuh tku dh ijokg u djrs gq, xzke nysyxat Fkkuk {ks= "kelckn eas fnu ngkM+s gqbZ iqfyl eqBHksM+ esa ekj fxjkus ikus lkgfld mifujh{kd uk-iq- Jh v"kkds dqekj jk.kk dks muds }kjk iznf"kZr vnE; lkgf "kkS;Z ohjrk o mPpdkVh dh d?kZO; ijk;.krk dks n`f"Vxr j[krs gq, ofj"B iqfyl v/kh{kd} Qrsgx<+ ds i= la[;k i&447@76] fnuk?d 24-1-1997] 13-3-1997 o 27-3-1997 ds vk/kkj ij dh xbZ laLrqfr ds vk/kkj ij mDr m-fu- dks vkmV&vkQ&VuZ ,d mPp in ij inksUufr iznku fd, tkus dk izLrko izsf"kr djrs gq, laLrqfr dh xbZ gS A

2- ofj"B iqfyl v/kh{kd} Qrsgx<+ rFkk iqfyl mi&egkfujh{kd} dkuiqj ifj{ks=} dkuiqj] dh vk[;k ds vuqlkj nsos"k mQZ iIiw feJk o mlds ,d lkFkh jkeiky dks fnu&ngkM+s xzke nysyxat esa iqfyl ikVhZ }kjk ekj fxjk;k x;k] ftl ij buke Hkh ? kksf"kr Fkk A mDr eqBHksM+ esa ekjs x;s vijkf/k;ksa ds dCts ls nks , - ch- ch- ,y- xu rFkk ,d 315 cksj jkbQy 16 dkjrwf ftUnk ,oa ,d QSDV?h esM xzsusM Hkh cjken fd;k x;k A bl eqBHksM+ esa iqfyl ikVhZ }kjk dkQh ek=k esa Qk;j Hkh fd, x;s ftlesa lf?; lnL; mDr mifujh{kd uk- iq- Jh v"kkds dqekj jk.kk dh fo"ks"k Hkqfedk jgh gS A bl mi&fujh{kd ds vnE; lkgf "kkS;Z ohjrk o drZO; fu"Bk dh ljkguk dh x;h gS A bl eqBHksM+ esa rRdkfyd iqfyl egkfujh{kd} dkuiqj tksu] dkuiqj }kjk iqfyl ikVhZ dh lnL;ksa dks :- 10]000 dk iqjLdkj Hkh Loh?r fd;k x;k gS lkFk gh lkFk turk }kjk Hkh :- 20]000 dk iqjLdkj nsus dh ?kks"k.k dh x;h gS A

3- mDr izdj.k dks "kklukns"k la[;k 665 ?1? iq- 1&24@93 ds 3-2-1994 dh ifjf/k ds vUrxZr ikrs gq, ofj"B iqfyl v/kh{kd} Qrsgx<+ }kjk miyC/k djks;s x;s rF;ksa ,oa vfHkys[kksa vkfn ds ?kVuk dh lnL;ksa ls lUrq"V gksrs gq, m- fu- Jh v"kkds dqekj jk.kk dks vkmV&vkQ&VuZ ,d mPp in ij izkUufr iznku fd;s tkus dh izcy laLrfr iqfyl } kjk dh x;h gS A eSa iqfyl mi&egkfujh{kd dkuiqj ifj{ks=} dkuiqj] dh laLrqfr ls iw.kZr;k lger gw? A

4- mDr izLrko dh ,d izfr e; vU; leLr vfHkys[kksa dh Nk;k izfr;ksa lfgr bl vuqjks/k ds lkFk izsf"kr gS fd vki bl lECU/k esa vxzlj dk;Zokgh djus dk d"V djsa A m-fu-iq- Jh v"kkds dqekj jk.kk dh pfj= iath l- vkbZ- fyLV 2 ds lECU/k esa iqfyl eq[;ky;] m- iz- bykgckn esa gh yfEcr gS A**

2. Notwithstanding recommendations, the petitioner was denied out-of-turn promotion vide order dated November 17. 1997 (Annexure-11 to the petition) which is the subject-matter of Impugnment in this petition. The relevant portion of the order rejecting petitioner's claim for out-of-turn promotion is quoted below :

^^lfefr us lEiw.kZ rF;ksa dk ijh{k.k djds xgu fopkjksijkUr ;g ik;k fd mDr eqBHksM+ esa "kklukns"k la[;k 665 ?1?@N&iq&1&24@93 fnuk?d 3-2-1994 esa of.kZr vnE; lkgf ,oa tksf[ke Hkjs izn"kZu ds vUrxZr mi&fu-@uk- iq- v"kkds jk.kk ds ?R; ljkguh; jgs gSa A eqBHksM+ ds nksjku Jh jk.kk us ,slk dksbZ fo"ks"k mYys[kuh; dk;Z ugha fd;k gS tks mijksDr "kklukns"k dh ifjf/k esa vkrk gks A vr% lfefr us bUgsa vkmV&vkQ&VuZ izksUufr ds fy;s laLrqfr ugha dh A**

3. From a perusal of the impugned order dated 17.11.1997. it would transpire that it assigns no reason as to why the petitioner, upon whom each one in the

hierarchy had lavished praise for his exemplary courage, and bravery in gunning down the dreaded dacoit putting in jeopardy his own life, as stated in the report of the Inspector General of Police, Kanpur Zone, Kanpur. was not appraised to be an act of exemplary courage and gallantry within the parameters laid down by the Government. It is worth noticing here that even the Director General of Police by his letter dated August 29, 1998. had made recommendations to the State Government for award of Police Medal to the petitioner for his exemplary courage and bravery for the Incident at village Dalelganj at the house of Virendra Tripathi. Pradhan of the village within the circle of P.S. Shamshabad in which an encounter with 5 or 6 dacoits took place. The reports of the sponsoring authorities constituted valid material for the formation of opinion as to whether the petitioner was entitled to be given out-of-turn promotion and were not liable to be ignored sans any rhyme or reason. The grant of power to give out-of-turn promotion to a police officer is no doubt subjectively formulated but the decision of the Committee one way or the other must be based on objective consideration of valid materials such as the reports/recommendations made by the S.S.P./D.I.G./I.G. (P). I find no valid reason justifying the order Impugned herein passed in disregard of valid materials on record.

4. In the result, the petition succeeds and is allowed. The impugned order dated 17.11.1997 is quashed. The respondents are directed to grant out-of-turn promotion to the petitioner in recognition of his exemplary courage, and bravery in the light of the Government Order dated 3.2.1994 within a period of two months from the date of production of a certified copy of this order.