

(2021) 03 DEL CK 0047

In the Delhi High Court

Case No : Civil Writ Petition No. 315 Of 2021, Civil Miscellaneous Application No. 803 Of 2021

Commandant Gajraj Singh Kabodula

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 04-03-2021

Acts Referred:

Citation : (2021) 03 DEL CK 0047

Hon'ble Judges : Manmohan, J;Asha Menon, J

Bench : Division Bench

Advocate : Shakti Jaidwal, Aakanksha Kaul, Dacchita Shahi

Final Decision : Dismissed

Judgement

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 24th August, 2020 passed by the Respondent No 2, wherein the petitioner's ROG representation dated 6th March, 2020, against denial of promotion to him to the rank of Deputy Inspector General (DIG) was rejected.
3. The primary allegation in the present writ petition is that respondents had promoted officers in DPC-2019 who were placed lower to the petitioner in the Order of Merit List. The said allegation is premised on an alleged list of officers selected and promoted by DPC-2019, which has been annexed as Annexure P-4 to the present writ petition. In the writ petition it has been averred that a similarly situated officer i.e. DIG D Dinakaran, who was also not selected by DPC-2019 had filed an ROG representation with the Ministry of Defence/National Commission for Schedule Castes against denial of promotion to him during DPC-2019 making similar allegations.

A copy of the Order of Merit List allegedly filed by DIG D Dinakaran with his ROG has been attached as Annexure P-4 to the writ petition. The relevant para of the writ petition mentioning the source of Annexure P-4, is reproduced hereinbelow:-

14. That, the Petitioner did not question the outcome of the DPC-2019 and continued to discharge his duties to the best of his abilities.

It is pertinent to mention that a similarly situated officer i.e., DIG D Dinakaran (0469-P), who was also not selected by DPC-2019 had/has

put up ROG representation to MoD/ National Commission for Schedule Castes against denial of promotion to him during DPC-2019.

However, the said officer has been promoted to the rank of DIG during the pendency of his ROG. True copy of Order of Merit List

(As submitted by DIG D Dinakaran with his ROG to MoD/Commission for Scheduled Castes) and the list of officers selected and promoted

by DPC-2019 is annexed herewith as ANNEXURE - P-4.

4. In view of the Merit List attached as Annexure P-4, it has been vehemently contended by learned counsel for petitioner that the respondents have

promoted officers in DPC-2019 who were placed lower to the petitioner in the Order of Merit List.

5. On the last two dates of hearing, learned counsel for the petitioner had also vehemently contended that the PARBED report/ACR grading of 2018

for DPC-2019 which had been approved and signed by previous Director General Indian Coast Guard (DGICG) had been reduced by the present

DGICG.

6. Consequently, this Court had asked the respondents to place on record the proceedings of the Coast Guard Promotion Board No. 2/DPC held in the

years 2018 and 2019 in a sealed cover (as it has gradings of a number of officers) along with a short affidavit dealing with contentions advanced by

the learned counsel for the petitioner.

7. In the affidavit dated 2nd March, 2021, it has been stated by the respondents that the DGICG has no role in preparing the said PARB gradings and

the Order of Merit List and that the PARBed gradings of the petitioner had not been changed in the 2019 Order of Merit List. The relevant portion of

the aforesaid affidavit filed by the respondents is reproduced hereinbelow:-

3. That the PARB Board reviews the Annual Confidential Reports (ACRs) of the officers and prepares summary of gradings and same is

approved by the Director General Indian Coast Guard (DGICG). Based on the summary of PARB Board gradings, an order of Merit List is

thereafter drawn by the DPC in the descending order of gradings. On the basis of which, DPC gives recommendations for promotion. The

Director General Coast Guard has no role in preparing the said PARB gradings and the Order of Merit List.

4. That the Order of Merit List, which formed the basis of the DPC- 2019, has taken into consideration the PARBed gradings for the years

2014-2018. The PARB Board summary was prepared on 11 June 2019 and approved on the same date by the previous DGICG. The same

document was placed before the DPC-2019 conducted in October 2019.

5. It is submitted that no re-PARB was carried out after the PARB board held on 11 June 2019, during the tenure of previous DGICG, as

neither the same is permitted nor provided for. It is, thus denied that the PARBed gradings of the Petitioner have been changed in the 2019

Order of Merit List.

8. Upon a perusal of the proceedings of the Coast Guard Promotion Board No. 2 held on 14th April, 2018 and 16th April, 2019, this Court

finds that the List annexed with the present writ petition as Annexure P-4, to put it mildly, is contrary to the record and not correct. Consequently, this

Court is of the opinion that the entire edifice/superstructure built by the petitioner in the writ petition is without a foundation.

9. In fact, none of the promoted officers in DPC-2018 and 2019 were placed lower to the petitioner in the Order of Merit Lists.

10. The source of Annexure P-4 as mentioned in paragraph 14 of the writ petition is contrary to the stand which the petitioner has himself taken in his

reply dated 26th May, 2020 to the Commander (for CSO(P&A) Headquarters, Coast Guard Region (NW), Gandhinagar. The relevant portion of the

petitioner's letter dated 26th May, 2020 attached as Annexure P-8 is reproduced herein below:-

4. It is further submitted that I have not attributed my position vis-à-vis the two Officers {Namely, DIG Ravindra Kumar (0478 -1) and

DIG P Syam Kumar (0494-V)} in the merit list of 2019 to any authenticated

document/source. It is based on informal inputs received from then Senior Officers during their field visits/interactions regarding my promotion prospects in 2019 and my own assessment, which, I believe to be correct. Therefore, the possible reasons given by me for my non -selection are also based on my own understanding of the whole situation. Hence, I have conveyed my views and requested the Competent Authority to clarify the issue and also to take necessary action, if, I have suffered from injustice inadvertently or otherwise.â??

11. Consequently, the source of Annexure P-4 if not dubious is at least based on hearsay.

12. This Court is also of the opinion that, keeping in view the affidavit of the respondents dated 02nd March, 2021, there is no merit in the petitionerâ??s allegation that the consolidated PARBed Report/ACR gradings of 2018 for DPC-2019 had been reduced by the present DGICG.

13. We may mention that, today during the course of hearing learned counsel for the petitioner repeatedly states that he would like to implead the previous DGICG to the present writ proceedings. This Court is constrained to observe that the petitioner has not only annexed Order of Merit List contrary to the official record but is also incorrectly trying to portray, just to obtain a promotion, as if there is a difference of opinion between the present DGICG and the previous DGICG. This Court restrains itself from saying anything more as the petitioner is a serving officer.

14. In any event, as the substratum of the writ petition i.e. Annexure P-4 has been found to be incorrect, the present writ petition along with pending application is dismissed.

15. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.