
(1996) 10 AHC CK 0066
In the Allahabad High Court
Case No : Special Appeal No. 906 of 1995

Desh Bahadur Singh Gautam

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 04-10-1996

Acts Referred:

Citation : (1996) 10 AHC CK 0066

Hon'ble Judges : D.P.Mohapatra, CJ and R.R.K.Trivedi, J

Final Decision : Dismissed

Judgement

R.R.K. Trivedi, J.—This special appeal has been preferred from the judgment and order dated 17101995, passed in Writ petition No. 27949 of 1995 by which the writ petition has been dismissed in limine.

2. The facts giving rise to this appeal are that petitioner Desh Bahadur Singh Gautam joined police service as SubInspector in the year 197374. He was confirmed in this service in 1980. Aggrieved by noninclusion of his name in C.I. List 2 of 1989, the appellant made several applications before superior authorities for consideration of his name to be included in the aforesaid list which included the names of SubInspectors fit for consideration for promotion as Inspectors. Ultimately, the appellant approached this Court by filing Writ Petition No. 8500 of 1991 in which dt. 521993 an order was passed by the learned Single Judge to the following effect:

"Heard Shri S.A. Jilani learned counsel for petitioner and learned Standing Counsel, Until further orders, the petitioner will be considered for promotion as Inspector as, in my opinion, he is eligible for promotion. He should be considered for promotion with in two months on production of certified copy of this order before the authority concerned."

In pursuance of the aforesaid interim order, a Committee consisting of five high ranking officials including the Director General of Police as Chairman, considered the claim of the appellant and found that appellant's name was rightly not

included in the C.I. List 2 for being considered for promotion as Inspector and no amendment is required to be made in the said list. The reasons recorded by this Committee were that the appellant was awarded adverse entries on 1191978, 3111983 and 1061985. Further, he has also been awarded adverse entry in 1992. His integrity of 1978 was withheld in 1980. The appellant, however, made an application in Civil Misc. writ petition No. 8500 of 1991 for modification of the order dated 521993 in pursuance of which the Committee and considered the name of the appellant regarding inclusion of his name in C.I. List 2 of 1989. On this application, the order dated 521993 was modified on 1101993. Operative part of the order was to the following effect:

"On the facts and circumstances of the case, I, therefore, modify my order dated 521993 and direct that within a month from the production of a certified copy of this order before the appropriate authority, the petitioner will be again reconsidered for promotion as Inspector of police treating him to be eligible and the authority shall take into account the facts mentioned in Para. 16 of the writ petition wherein it has been stated that the person having the same number or more adverse entries have been promoted."

3. Therefore, appellant filed Contempt petition No. 1123 of 1994 in which also an order was passed. Consequently, another Committee consisting of very high officials of police department including the Director General of Police, who presided the meeting,

4. We have considered the submissions of the learned counsel for the appellant on merit. However, we do not find any error in the conclusion arrived at by the Committee on 1981995. Learned counsel for the appellant tried to persuade us to enter into the assessment of the merit or the appeal for challenging the order passed by the Committee. However, in our opinion, this Court cannot aid should not ever into assessment of .he merit which has been done by the specialist of the subject. The high ranking police officials have considered the claim of the appellant and have found him not entitled for promotion; Learned counsel for appellant has not been able to establish that the conclusions so arrived at are perverse or arbitrary and could not be drawn from the material on record. This Court cannot substitute its own conclusions in place of the conclusions of the departmental committee for granting relief of promotion to the appellant. Learned counsel has placed reliance in cases of *Uttar Pradesh Madhyamik Shikshak Sangh v. State* reported in 1917 AWC 259, *C.B. Singh v. State* reported in 1990 AWC. 988 (D.B.) and *Suresh Chandra Sharma v. State of U.P.* and others reported in (1992) 1UPLBEC 590.

5. We have considered the aforesaid cases. However, the cases are distinguishable on facts and we do not find anything helpful to the appellant in the facts of the present case.

6. Learned counsel for the appellant also challenged the order of the Committee on the ground that 50% marks have been allocated for interview and there was

sufficient chance of abuse and arbitrariness. Learned counsel relied on the case Nani Gopal Sarkar v. Heavy Engineering Corporation Ltd. reported in (1990) 3 UPLBEC 1530 and Mahesh Chandra Gupta v. State of UP. reported in (1990) 3 UPLBEC 1800. However, in our opinion, the submission has no substance. It is admitted case that there was no written test of the candidates. The Department fixed 50% marks for assessment of the service record and 50% for personality test by interview. In absence of written test, the view expressed by the Hon''ble Supreme Court the marks for interview should not exceed 15% cannot be accepted.

7. Hon''ble Supreme Court in case of D.B. Bakshi and others v. Union of India and others, reported in J.T. 1993 (4) S.C. 180 has held that in prescribing weightage for written and oral test, method of evaluation would vary and cannot be a matter of any straight jacket formula. Weightage to be given to the performance at the interview would depend on the nature of duties, responsibilities and functions to be handled after selection. It cannot be denied that a police Inspector has to discharge very important duties and serious responsibilities and he has to control and maintain discipline amongst the subordinate police officials. The allocation of 50% marks thus cannot be said to be illegal or arbitrary. Hon''ble Supreme Court in case of Andhra Pradesh State Financial Corporation v. CM. Ashok Raju reported in J. T. 1994 (5) S.C. 481, has specifically held that in selection promotion where only viva voce test is provided, no limit can be imposed for prescribing marks for interview. In view of the aforesaid legal position expressed by the Apex Court, the contention of the learned counsel for the appellant cannot be accepted.

9. For the reasons stated above, there is no serious illegality or infirmity in the view taken by the Committee on 1981/1995 and in the impugned judgment and order passed by the learned Single Judge.

10. The Special Appeal has no merit and is accordingly dismissed.