
(2013) 07 JH CK 0136
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4068 of 2006

Dineshwar Tiwary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-07-2013

Acts Referred:

Citation : (2013) 07 JH CK 0136

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : K.P. Deo, for the Appellant; Saket Upadhyay, JC to AAG for the State, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. The petitioner has approached this Court with a prayer for directing the respondents to promote him to the rank of Inspector of Police from the date on which he is found eligible or at least from the date several persons junior to him such as private respondents, have been promoted.

2. During the pendency of the writ application, the petitioner was granted promotion on the post of Inspector with effect from 27th November 2006 and was placed in the seniority list at serial no. 116 "A1". According to the petitioner, he ought to have been granted promotion with effect from 27th February 2003 as on that date, petitioner was not facing any departmental enquiry or was inflicted with any punishment. It is submitted on his behalf that in the order by which other persons were promoted to the post of Inspector including respondent nos. 9 and 10 with effect from 9th May 2003, it was indicated that those incumbents on the post of Sub-Inspector who were not facing departmental enquiry or punishment, shall be promoted with effect from 27th February 2003. According to the petitioner, he has not faced any departmental enquiry, nor has been punished as such in any such proceeding. In spite of that, the petitioner has been promoted from a much later date than 27th February

2003 or 9th May 2003 whereas the private respondents were promoted who, according to him, are junior to him. All these facts were brought to the notice of the court on 16th January 2013 and respondents were allowed time to obtain instruction and file counter affidavit.

3. In the supplementary counter affidavit filed on their behalf on 08th July 2013, they have taken a stand that the respondent no. 10-Jai Prakash Sharma was promoted to the post of Sub Inspector of Police with effect from 14th February 1979 while the petitioner was 16/ 15.07.2013 promoted to the post of Sub Inspector of Police with effect from 01st April 1982. Therefore, the petitioner should not be entitled to claim promotion either with effect from 27th February 2003 or with effect from 09th May 2003 as he was junior to the respondent no. 10. They have also relied upon the seniority list published in the year 2010, as per which, the said respondent no. 10 is at serial no. 187.

4. A rejoinder to the supplementary counter affidavit has also been filed on behalf of the petitioner in the nature of supplementary affidavit on 8th July 2013. According to the petitioner, the petitioner as well as the respondent no. 10, both were promoted as Sub Inspector of police with effect from 14th February 1979 and their respective dates of confirmation on the post of Sub Inspector of Police were however 01st April 1982 and 01st March 1983 respectively. These dates are furnished by way of a chart at para-6 of the instant supplementary affidavit. It is submitted that though the respondent no. 10 was awarded major punishment, but he has been promoted to the post of Inspector of Police with effect from 9th May 2003 whereas the petitioner did not face any departmental proceeding or was inflicted with any punishment, therefore, he ought to have been promoted to the post of Inspector of Police with effect from 27th February 2003 which has been denied to him. He also submits that the seniority list of Inspector of Police published in the year 2010 which has also not been annexed to the supplementary counter affidavit, is of no relevance as the petitioner himself had superannuated on 31st December 2006 while the respondent no. 10-Jail Prakash Sharma had also superannuated in the year 2008. In such circumstances, respondents have wrongly denied promotion to the petitioner with effect from 27th February 2003. Counsel for the petitioner has also relied upon the extracts of the service book brought on record by way of a rejoinder to the counter affidavit filed on behalf of the respondent nos. 4 to 7 which is annexed as Annexure-9 wherein he has been shown to have been confirmed on the post of Sub Inspector of Police with effect from 01st April 1982. It is submitted that the case of the petitioner is standing on better footing than the respondent no. 10 and he deserves better treatment if not similar treatment given to the respondent no. 10 by giving the said promotion to the post of Inspector with effect from 27th February 2003 or 09th May 2003. I have heard counsel for the parties at length and gone through the relevant materials on record. The issue now has narrowed down to the effective date of promotion to the post of Inspector claimed by the petitioner and consequential benefits arising thereof. The aforesaid claim which has been made out on behalf of the petitioner by

making the aforesaid submissions which is narrated herein above, needs to be addressed on verification of the relevant records by the respondent themselves. In such circumstances, the writ petition is disposed of by directing the respondent no. 4-Director General of Police, Jharkhand, Ranchi to get the matter verified and if the contention of the petitioner is found true, then consequential orders granting promotion to the petitioner with effect from 27th February 2003 or with effect from 09th May 2003 or such due date may be issued within a period of ten weeks from the date of receipt of a copy of order. If the petitioner is found entitled to such promotion, consequential benefits arising thereof should also be paid to him, within a period of six weeks thereafter.

The writ petition stands disposed of in the aforesaid terms.