
(2005) 08 JH CK 0003

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5384 of 2002

Ram Nath Ram

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-08-2005

Acts Referred:

Citation : (2005) 4 JCR 173

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Rajiv Ranjan, D.K. Verma and Shashi Kant, for the Appellant; Md. Mokhtar Khan, Sr. CGSC, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by petitioner for a direction on the respondents to reconsider the case of petitioner for promotion to the post of Deputy Commandant, in view of the fact that the adverse remarks in the annual confidential report of petitioner recorded during the period 1st January, 1997 to 31st December, 1997 and 1st April, 1996 to 7th August, 1996 have been expunged vide orders dated 3rd March, 1999 and 2nd March, 2000 respectively.

2. According to the petitioner, he was appointed in the services of Central Industrial Security Force (hereinafter referred to as "CISF") in the year 1968 and was accorded the Personnel Number 7111003. During his service career, he took every care to keep high spirits, honesty and sincerity in his work for which he was awarded on several occasions and provided with commendation certificate. He was promoted to the post of Assistant Commandant vide Notification dated 18th March, 1991, whereinafter he was posted at various places in Madhya Pradesh, Jharkhand, Chennai, Tamil Nadu etc. In the seniority list of Assistant Commandants (Executive) dated 13th December, 1995, his name was appearing at Serial No. 181. Another revised seniority list of Assistant Commandants of CISF was published on 30th June, 1999, wherein his name has been shown at

serial No. 74.

3. The case of the petitioner is that though he was eligible for promotion to the post of Deputy Commandant in the year 1997, he was not given promotion from due date. On the other hand, persons junior to him were promoted to the post of Deputy Commandant. Adverse remarks were recorded in his confidential record first on 20th October, 1997 for the period 1st January, 1997 to 31st December, 1997 and second on 20th October, 1997 for the period 1st April, 1996 to 7th August, 1996, which were communicated to him. Against those two adverse remarks, he represented, which was allowed by the competent authority and both the adverse remarks of the aforesaid period were expunged vide orders dated 3rd March, 1999 and 2nd March, 2000 respectively. The grievance of the petitioner is that though the respondents should have reviewed and should have reconsidered the case of petitioner for promotion to the post of Deputy Commandant with effect from the date the juniors so promoted (since 1997), adverse remarks having been expunged, his case was not placed before the Review Departmental Promotion Committee. In a regular manner, his case was subsequently considered and he was promoted to the post of Deputy Commandant in the year 2002.

4. Counsel for the petitioner relied on enclosures attached to the writ petition to suggest that the persons junior to him were considered and promoted to the post of Deputy Commandant w.e.f. 1997.

5. The respondent were directed to produce the original records, including the proceeding of the Departmental Promotion Committee. They have produced three sets of original file in connection with the promotion, recommendation and refusal of promotion of Officers including the petitioner. From file No. E-31013(2)/1/ 2000, Pers II, it appears that consequent upon expunction/change in adverse remarks in the ACRs of three Assistant Commandants, namely, Ram Nath Ram (SC-Petitioner herein), S.K. Sarkar and Smt. Pratibha Agrawal, their cases were placed before Review Departmental Promotion Committee to review the earlier decision taken on 24/25th September, 1999. The Review Departmental Promotion Committee in its meeting held on 3rd March, 2000 taking into consideration the adverse remarks as were expunged/changed, considered the case of petitioner, Ram Nath Ram (SC), S.K. Sarkar and Smt. Pratibha Agrawal. On the basis of service record, the petitioner was assessed as "average" whereas S.K. Sarkar and Smt. Pratibha Agrawal were assessed as "good". On the basis of such assessment, while the name of petitioner was not included, his position being below the prescribed benchmark, the names of S.K. Sarkar and Smt. Pratibha Agrawal, who were earlier superseded, were recommended for empanelment and placement below the last senior, who was earlier promoted.

6. From the aforesaid fact, it will be evident that the case of petitioner was placed before the Review Departmental Promotion Committee after expunction of adverse remarks, but, thereafter, he having found average and below the

prescribed benchmark, his name was not recommended. Later on, he having found fit, was promoted in the year 2002, as informed by the counsel for the Union of India. I find no ground made out to allow the prayer, as made in this writ petition. There being no merit, this writ petition is dismissed.

However, in the facts and circumstances, there shall be no order as to costs.

Let the original records be handed over to Mr. Md. Mokhtar Khan, Sr. SCCG.