
(2009) 04 AHC CK 0759
In the Allahabad High Court

Ramdhari Yadav

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 16-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0759

Hon'ble Judges : Sunil Ambwani, J

Final Decision : Allowed

Judgement

Sunil Ambwani, J.

Heard learned counsel for the petitioner. Learned standing counsel appears for the respondents. With the consent of parties, the writ petition was finally heard.

The petitioner is serving as Head Constable in Civil Police in district Chandauli. It is stated that he joined police force on 29.1.1969 and will be completing 40 year's service on 28.1.2009. He is going to retire on 30.9.2009.

The Superintendent of Police, Chandauli has recalled his recommendations forwarding his papers for award of second promotional pay scale on 6.3.2009, giving rise to this writ petition.

A perusal of the order passed by the Superintendent of Police, Chandauli communicated to the petitioner would show that the petitioner's integrity was withheld in 1996. He was awarded six punishments between 1980-89. In 1993 his one increment was stopped. In the years 1982, 1997 and 1993 he was awarded censure entries and that in 1981, 1982, 1982, 1983 and 1986 he was punished with fines for treating his absence for leave without pay. In spite of these punishments and entries, the petitioner was awarded selection grade on 5.7.1996, and super selection grade on 15.7.2000. The Superintendent of Police has found that with these entries in service records the petitioner is not entitled to the second promotional grade.

The award of promotional selection grade and Sub Inspector's pay grade is given

to mitigate the hardships suffered by the Government servant, who could not be considered for promotion on account of some delay in the procedure or availability of vacancies. The award of second promotional grade/sub inspector pay grade is further subject to good conduct and satisfactory service which has been explained in the Government Order dated 30.6.1993, annexed to the writ petition.

It is contended by counsel for the petitioner that since all the entries referred to by the Superintendent of Police were awarded prior to 1993, and that since thereafter the petitioner has not been awarded any punishment. His services in the last five years has been satisfactory.

A perusal of the Government Order dated 30.6.1993 would show that the satisfaction in this regard is subjective, and has to be arrived at after looking into the service records. The guidelines to consider and to assess the satisfactory service provide, that where the Government servant has been awarded promotion, or has crossed the efficiency bar, his services for the period prior to such promotion of crossing of efficiency bar should not be taken into consideration for considering the satisfactory service. Further it is provided that where the integrity of the government servant has been certified for five years, continuously after his integrity was last withheld and that he has not earned any adverse entry, warning, censure, minor penalty or any adverse entry, for a continuous period of five years, after the award of last punishment, his services should not be treated to be unsatisfactory. Prima facie the order of the Superintendent of Police, Chandauli would show that the petitioner's integrity was withheld in the year 1996, and that he was given last censure entry in the year 1993, and thereafter he was given selection grade on 15.7.1996 and super selection grade on 15.7.2002.

The petitioner has not been awarded any adverse entry or punishment after 1996. He was awarded selection grade in 1996 and 2000 and thus the findings, that the petitioner's services are not satisfactory, suffers from reasonable and rational consideration of his service records.

In the facts and circumstances of the case and specially in view of the fact that the petitioner is going to retire on 13.9.2009, the writ petition is allowed. The order of the Superintendent of Police, Chandauli dated 6.3.2009 is set aside, with directions that he will forward the papers of the petitioner for consideration for grant of second promotional grade/Sub Inspector's Pay grade to the Police Headquarters. A writ of mandamus is issued to respondents to consider petitioner for grant of second promotional pay scale or Sub Inspector's pay grade, within two months from the date a certified copy of the order is produced before the Superintendent of Police, Chandauli, and the Deputy Inspector General of Police, Police Headquarters at Allahabad.