

(2003) 08 AHC CK 0051
In the Allahabad High Court
Case No : C.M.W.P. No. 11248 of 1991

Sadanand Rai

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 26-08-2003

Acts Referred:

Citation : (2003) 6 AWC 5131

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : B.N. Rai, T.P. Singh and Adarsh Kumar, for the Appellant;

Judgement

Vineet Saran, J.—This is a writ petition filed with a prayer for a direction to the Respondents to promote the Petitioner as Circle Inspector-II with effect from 1985 and also give him the benefit of seniority and other consequential benefits. A further prayer has also been made for a direction to grant selection grade to the Petitioner with effect from 1981.

2. It is the case of the Petitioner that he was appointed as Constable in Civil Police in the year 1962 and was promoted on the post of Sub-Inspector in 1971. The Petitioner appeared before the Selection Committee for promotion as Circle Inspector-II in the year 1985 but the recommendation of the Selection Committee was put in a sealed cover in view of the Government Order dated 30.11.1983.

3. The only ground taken by the learned standing counsel for not having granted promotion to the Petitioner was because of the pendency of certain cases against the Petitioner, details of which have been given in paragraph 3 of the counter-affidavit. It has been submitted by the learned Counsel for the Petitioner that in the first case mentioned therein, i.e., Case Crime No. 350 of 1981, the charge-sheet was submitted in the year 1991 and till date the case is still pending. With regard to the second case, i.e., the departmental proceedings, it has been submitted that the Petitioner has been exonerated by the order dated 13.7.1991

of the Inspector General of Police, Allahabad Zone, Allahabad, a copy of which has been filed as Annexure-R.A. 1 to the rejoinder-affidavit. Learned Counsel for the Petitioner has categorically stated that other three cases mentioned in paragraph 3 of the counter-affidavit do not exist. There is no record of the said cases and no proof of the pendency of the same has also been submitted.

4. It has been stated at the Bar that the Petitioner has already retired in the year 1998. Although learned standing counsel has stated that in view of the retirement of the Petitioner, this writ petition has become infructuous but in my view since the post retiral benefits of the Petitioner would be affected, this matter needs to be decided on merits.

5. From the record it is clear that the recommendations were made by the Departmental Promotion Committee in the year 1985. In the year 1992, when the counter-affidavit had been filed, the pendency of the aforesaid cases had been mentioned, some of which related to after the year 1985. The Respondents have not explained as to how cases instituted after 1985 could have been taken into consideration and further ought to have also categorically come out with the facts as to what exactly happened in those cases because of which the Petitioner was deprived of his promotion.

6. Considering the facts and circumstances of the case, since in the departmental proceedings the Petitioner has already been exonerated, and in the Case Crime No. 350 of 1981 the charge-sheet itself was submitted in the year 1991 which is six years after the recommendations of the Departmental Promotion Committee and other three cases also relate to the year 1987 of which even no record has been submitted by the Respondents, the same ought not to have been made the basis for denying promotion to the Petitioner for such a long period.

7. In the aforesaid facts and circumstances, it is directed that the Respondents shall look into the matter regarding grant of promotion to the Petitioner on the basis of the recommendations made by the Departmental Promotion Committee in the year 1985 in the light of the observations made above, within a period of three months from the date of filing of a certified copy of this order before Respondent No. 2, the Director General of Police, U.P., Lucknow. In case if the Petitioner is found entitled to promotion, he shall be given all consequential benefits of the same.

8. This writ petition is accordingly disposed of. However, there shall be no order as to costs.