

(2009) 08 DEL CK 0277

In the Delhi High Court

Case No : Writ Petition (C) No. 1416 of 1997

Shri R.K. Mehra

APPELLANT

Vs

United India Insurance Co.

RESPONDENT

Date of Decision : 25-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0277

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Puneet Agrawal and Arvind Kumar Sharma, for the Appellant; A.K. De, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Gaur, J.—Petitioner has filed this writ petition against his non-promotion and also against his apprehended transfer. The second relief pertaining to apprehended transfer has become infructuous. However, the first relief still survives for consideration.

2. Petitioner had joined the Respondent - Insurance Company, as a Branch Manager and on 23rd July, 1981, he was placed under suspension due to a CBI Inquiry and on the basis of the CBI Inquiry, Petitioner had faced a criminal trial and ultimately, he claims that he was acquitted. Eventually, vide order of 27th January, 1986, his suspension from service was revoked and thereafter, Petitioner had agitated his claim for promotion. The seniority list, relied upon by the Petitioner is (Annexure-E), in which the name of the Petitioner figures at Serial No. 9.

3. The grievance of the Petitioner is that his juniors have been promoted and the names of the juniors find mention in para 13 and 14 of the writ petition. Despite Representations, Annexure-I (Colly.), grievance of the Petitioner was not redressed, which led the Petitioner to file this petition.

4. Counter affidavit of the Respondent reveals that the promotion is made not

only on seniority basis, but merit based on Performance Appraisals is duly considered. According to the Respondent, case of the Petitioner was considered for promotion to the post of Deputy Manager, in the year 1989, and he was not found suitable. In response to para 13 and 14 of the writ petition, it has been stated by the Respondent that the performance of the juniors of the Petitioner was better and so they were promoted. It is pointed out by the Respondent that under Rule 10.2 of the Promotion Policy, review of the promotion made, can be sought by the aggrieved officer, but the Petitioner had not sought any such review of the promotions made from time to time and this petition is without any basis and deserves dismissal.

5. After having heard both the sides and upon perusal of the material on record, this Court finds that the writ petition is quite vague and the response filed to it is equally vague. As late as in January, 2002, some specific instances have been pointed out by the Petitioner by filing two additional affidavits. Alongwith additional affidavit of January, 2002, copy of Seniority List of Assistant Manager, as on 1st March, 2000 has been placed on record, as Annexure-B. Petitioner asserts in his additional affidavit that in the year 1976, he was eligible for promotion to the post of Assistant Manager and he was at Serial No. 1 in the seniority list of the year 2000. In the second additional affidavit of October, 2002, there is a reference to the subsequent events and vide C.M. No. 1623/2002, stay of the process of promotion was also sought by the Petitioner, which was not granted. In any case, the additional affidavits pertaining to subsequent events need not be looked into in the first instance, as it pertains to consequential benefits.

6. The Apex Court in State of Uttar Pradesh Vs. Jalal Uddin and Others, on promotional prospects has observed as under:

In all services, whether public or private there is invariably a hierarchy of posts comprising of higher posts and lower posts. Promotion, as understood under the Service Law Jurisprudence, is advancement in rank, grade or both and no employee has right to be promoted, but has a right to be considered for promotion.

7. In the light of the aforesaid, what is required to be seen is, as to whether the Petitioner is entitled to the main relief or not. It is not clearly brought out in the petition as to for which post the promotions were made after the year 1986, i.e., after the revocation of the suspension of the Petitioner. The juniors, who were being promoted are not a party to this petition. Moreover, Petitioner has a right to be considered for promotion and it is the case of the Respondent that the Petitioner was, in fact, considered for promotion and the promotion policy (Annexure R-1) is on the seniority-cum-merit basis. By means of additional affidavits, counsel for the petitioner has belatedly tried to give some facts but in vain, as various orders promoting juniors of petitioner, from time to time, are not impugned in this petition. In any case, the promotion of the juniors of the Petitioner cannot be upset without they being made the parties to this petition.

There is no challenge to the promotion policy, nor there is an effective challenge to the manner, in which promotions have been made by the Respondent.

8. In the light of the aforesaid, I am of the considered view that this petition lacks substance. Resultantly, this petition is dismissed.

9. No costs.