
(2008) 03 JH CK 0099
In the Jharkhand High Court

S.K. Mitra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 04-03-2008

Acts Referred:

Citation : (2008) 117 FLR 632 : (2008) 2 JCR 709

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—In this writ petition the petitioner has prayed for a direction on the respondents to consider him for promotion to the rank of Additional D.I.G. w.e.f. 24.1.1997 which was given much later w.e.f. 12.8.1997. He has also claimed consideration for promotion to the rank of D.I.G. w.e.f. 1.11.2000.

2. When the case is taken up for hearing, Mr. S.K. Ughal, learned Counsel appearing on behalf of the petitioner, informed this Court that the petitioner has already been superannuated and before his retirement, he was given promotion to the post of D.I.G. w.e.f. 29.6.2004.

3. Learned Counsel for the petitioner submitted that one Mr. A. Ranganathan, who was junior to the petitioner in the Commandant rank, was given promotion to the post of Additional D.I.G. w.e.f. 24.1.1997 whereas the petitioner was given promotion to the said rank w.e.f. 12.8.1998. Similarly, the juniors to the petitioner were given the rank of D.I.G. w.e.f. 1.11.2000 whereas the petitioner was given promotion to the rank of D.I.G. w.e.f. 29.6.2004. The grievance of the petitioner is that he was given arbitrary and discriminatory treatment by the respondents and he was deprived of his due promotion while persons junior to him were given promotion. He has, thus, claimed shifting of the date of his promotion w.e.f. 24.1.1997 and to the rank of D.I.G. w.e.f. 1.11.2000 i.e. the date when the juniors to the petitioner were given promotion to the said ranks.

4. A counter-affidavit has been filed on behalf of the respondents contesting the

petitioner's claim. It has been stated, inter alia, that the promotion from the rank of Commandant to the rank of Additional D.I.G. as well as to the rank of D.I.G. is given on the basis of the recommendation of the Departmental Promotion Committee (D.P.C.) after over all assessment. The D.P.C. did not find the petitioner fit for promotion at the time when the juniors to the petitioner were given promotion. The petitioner did not challenge the said promotion and the Constitution of the D.P.C. at that time. When the petitioner was subsequently found fit and given promotion to the rank of Additional D.I.G. w.e.f. 12.8.1998, he for the first time challenged the said order and claimed his seniority over the persons who were earlier given the rank of Additional D.I.G. Learned Counsel for the respondents submitted that the promotion to the rank of Additional D.I.G. as also to the rank of the D.I.G. are not given only on the basis of seniority, rather the same is dependent on overall assessment and performance and on that basis the recommendation of the D.P.C. The petitioner's claim is based on only seniority and is untenable.

5. I have heard learned Counsel for the parties and considered the facts and materials appearing on record. It is an admitted fact that when the D.P.C. was constituted and one Mr. A. Ranganathan was given promotion to the rank of Additional D.I.G. w.e.f. 24.1.1997 and subsequently to the post of D.I.G. w.e.f. 1.11.2000, the petitioner had not challenged the said decision of the D.P.C. The petitioner's seniority was not ignored by the said D.P.C. and his candidature was considered, but he was not found fit for promotion at that time. The petitioner having accepted the said Constitution and the decision of the D.P.C. at that time, cannot now challenge the decision of the DPC, claiming his promotion on the basis of seniority in the gradation list of the Commandant. In view of the above, I find no merit in this writ petition which is, accordingly, dismissed.