
(2009) 05 JH CK 0131
In the Jharkhand High Court

Surendra Pal Singh

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 05-05-2009

Acts Referred:

Citation : (2009) 05 JH CK 0131

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Heard Sri K.K. Singh, learned Counsel for the petitioner and Sri Faizur Rehman, learned Counsel for the respondent Union of India.

2. The petitioner in this writ application has prayed for an order setting aside the order dated 29.12.2005 (Annexure-1) issued by Assistant Inspector General (Personnel), C.I.S.F. containing names of officers who were granted promotion but the petitioner was not granted promotion.

A further prayer has been made for setting aside the order dated 07.04.2006 (Annexure-3) issued by the Respondent No. 3 whereby the petitioner's representation for his promotion has been rejected.

The petitioner has made a further prayer for a direction to the respondents to consider the petitioner's case for his promotion to the higher post with effect from 29.12.2005 and to expunge the adverse remarks recorded in his ACR for the year 2004-05.

2. The petitioner is presently holding the rank of Deputy Commandant of the C.I.S.F. under the respondent unit. His grievance is that the persons junior to him have been granted promotion against vacancies year after year but the petitioner has been denied the benefit.

3. Learned Counsel for the petitioner would submit that although the petitioner's candidature for his promotion was referred to the Departmental Promotion

Committee (D.P.C.) for consideration but the D.P.C. had arbitrarily rejected the petitioner's case on the ground of purported adverse remarks in his A.C.R., even without considering the A.C.Rs. of the preceding five years, as required under the rules of procedure, Learned Counsel explains that even as admitted in the impugned order (Annexure-3), though the meeting of the D.P.C. was held in the month of December, 2005 for the purpose of considering the case of the eligible candidates for their promotion against the vacancies accrued in the year 2005-06, but the petitioner's A.C.R. for the year 2004-05 was not considered and this being an irregularity, the decision of the D.P.C. is per se arbitrary and vitiated. Learned Counsel adds that even though at its next meeting in May, 2006, the D.P.C. had considered the A.C.R. of 2004-05 but acted upon the adverse remarks recorded therein even without enabling adequate opportunity to him to file his representation for expunction of the adverse remarks.

Learned Counsel adds further that even thereafter, the D.P.C. had held its meeting in the subsequent years also against the existing vacancies, but each time, on the ground that the petitioner's A.C.R. did not qualify for his promotion, his case was not recommended by the D.P.C.

Learned Counsel adds further that the petitioner had filed his representation stating in detail, his grievance that even without communicating the purported adverse entries in his A.C.R. for the year 2004-05, the adverse entries were taken into consideration for rejecting his claim and had prayed for reconsideration of his case for his promotion, but by the impugned letter, it was communicated to him that his representation was rejected.

4. The respondents in their counter affidavit have answered the issues raised by the petitioner by explaining that admittedly the petitioner's case, along with all eligible candidates, was considered by the D.P.C. for promotion to the higher post against the existing vacancies. The A.C.Rs. of the preceding five years were taken into consideration in respect of all the eligible candidates, but in the case of the petitioner, since the A.C.R. of 2004-05 had contained certain adverse remarks which were not yet communicated to the petitioner to enable him to file his representation for expunction of the adverse remarks, the entries of the A.C.R. for the year 2004-05 were therefore not taken into consideration initially in December, 2005 and the decision of the D.P.C. was based on the A.C.Rs. of the preceding four years. The petitioner was later informed about the adverse entries against which he filed his representation of expunction. The representation was considered and thereafter rejected. At the next meeting of the D.P.C. in May, 2006, the petitioner's case was again considered on the basis of his A.C.Rs. of the preceding five years and he was again found not fit for promotion.

5. Having considered the facts of the case and the issues raised by the petitioner, it appears that the petitioner's sole grievance is that the respondent authorities had delayed the communication of the adverse entries in his A.C.R. for the year 2004-05 by more than one year thereby preventing him from filing his representation for expunction of the remarks within time and on the other hand,

have rejected the petitioner's case for promotion on the basis of the aforesaid adverse remarks. It also appears that in the matter of taking decision regarding the promotions of the officers, the D.P.C. is bound by certain guidelines and, as declared in the counter affidavit, the guidelines have been meticulously followed by the D.P.C. and as such, the decision of the D.P.C. cannot be questioned by the petitioner in this writ application.

7. For the reasons discussed above, I do not find any merit in this writ application. Accordingly, the same is dismissed.