
(2007) 03 AHC CK 0232
In the Allahabad High Court

Ved Pal Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 26-03-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2007) 5 ADJ 268 : (2008) 6 AWC 6494 : (2007) 2 UPLBEC 1553

Hon'ble Judges : Ashok Bhushan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.—Heard counsel for the petitioner and the learned Standing Counsel.

2. By this writ petition, the petitioner has prayed for quashing the order dated 29.8.1998 passed by Deputy Inspector General of Police (Intelligence), U.P. Lucknow. A mandamus has also been prayed directing the respondents to consider the case of the petitioner for accelerated promotion on the post of head constable.

3. Brief facts necessary for deciding the writ petition are; petitioner was originally appointed as Constable in Civil Police but latter on posted in Special Cell Intelligence Department. While working in the Intelligence Department he got three accused persons and arrested on 16/17.5.1984. A recommendation was made for accelerated promotion under para 455 of U.P. Police Regulation Act while letter dated 22.5.1984 when petitioner was not promoted, he filed a claim petition No. 481 which was decided by the U.P. Public Services Tribunal vide its judgment and order dated 24.10.1997. The claim petition was allowed directing Director General of Police to consider the case of the petitioner for promotion to the post of Head Constable under para 455 of the U.P. Police Regulation Act. In pursuance of the order of Tribunal the Director General of Police passed an order that petitioner is not entitled for promotion under para 455. The Director General

of Police took the view that only constables who are entitled to be promoted under 455 are those who are not eligible for promotion under para 454. The said order passed by the Director General of Police has been challenged in the writ petition.

4. The learned Counsel for the petitioner contended that there was no impediment in consideration of petitioner's promotion under para 455. He submits that petitioner's case was recommended on account of his exemplary courage for accelerated promotion which could not have been denied on the ground that petitioner was 30 years of age, at the relevant time. He further contended that at the date when the representation was decided petitioner was more than 40 years. He further contends that there is no mention of any particular age in para 455.

5. The learned Counsel for the petitioner has lastly contended that several persons have been granted promotion whose work were not up to that magnitude and he referred that some person only on account of arrest of a truck driver was promoted.

6. The learned standing counsel appearing for the respondent contends that the promotion under para 455 is considered only when a constable is unable to get promoted under 454. He further submits "that there is specified committee in consideration of promotion.

7. I have considered the submissions and perused the record. The Director General of Police has rejected on the ground that only those constable who are unable to get promoted under 455 and entitled for promotion under para 455. The Director General of Police as stated in the impugned order that promotion under 454, 40 years of age has been fixed and thus only those constables who are more than 40 years of age can be considered for promotion under 455.

8. Para 454 and para 455 of the U.P. Police Regulations which are relevant are quoted below:

454. The following constables will be eligible for promotion to the rank of head constables.

(a) constables of the civil police who qualified before 1st January, 1941, in accordance with the rules then in force and who have also passed such course as the Inspector General may prescribe.

(b) constables of the armed police who have already obtained a regimental drill certificate, and

(c) constables of the civil and armed police who have passed the prescribed course at the Police Training School, Sitapur.

455. Specially deserving constables of Civil Police who are unable to qualify for promotion in the manner specified in paragraph 454 may be promoted to the rank of Head Constable with the approval of the Range Deputy Inspector General

of Police, provided that the total number of head constables so promoted in the district shall at any one time not exceed 20 per cent of the total number of head constables, Civil Police, sanctioned in the district for Watch and Ward Duty.

Specially deserving constables, Civil Police of the Criminal Investigation Department who are unable to qualify for promotion in the manner specified in paragraph 454, may be promoted to the rank of head constable by the Deputy Inspector-General of Police, Criminal Investigation Department provided that the total number of head constables so promoted in the Criminal Investigation Department shall not exceed 50 per cent of the head constables, Civil Police, sanctioned for the Criminal Investigation Department.

Specially deserving constables of the Armed Police who are unable to qualify for promotion in the manner specified in paragraph 454 may be promoted to the rank of head constable by the Deputy Inspector General of Police. Headquarters, provided that the total number of head constables so promoted shall not exceed 2-1/2 per cent of the posts of head constables, Armed Police sanctioned for the Police Force.

9. A perusal of para 455 indicates that key words in para 455 are "Specially deserving constables of the Armed Police who are unable to qualify for promotion in the manner specified in paragraph 454 may be promoted." Thus the promotion under 455 is contemplated of those persons who are unable to get promoted under 454 and who are specially deserving constables. Para 454 and 455 are not two overlapping channels of promotion. Both the channels operate in different field. The clear words of 455 means that those constables who could not be promoted under 454 can be considered and promoted under 455. Thus the channel for promotion of constable to the post of Head Constable is under para 454. Every constable has to complete for promotion under para 454. Channel of promotions under 455 is not a channel for by-passing the promotion under 454. In case interpretation as contended by the learned Counsel for the petitioner is accepted then both the channels shall be overlapping and will lead to unsatisfactory result. The purpose and object of para 455 is that those constable who could not be promoted under 454 but they are deserving candidates can be promoted by Deputy Inspector General of Police.

10. The counsel for the petitioner has contended that there is no mention of age in para 454 hence, the Director General of Police committed error in observing that petitioner was not 40 years of age on the relevant time, hence he was not eligible for promotion under para 455. The order impugned clearly mentions that age fixed for promotion under 454 is 40 years or less. The said statement of fact has not been challenged in the writ petition. In Para 454 the eligibility and all other requirement of promotion are not provided and they can be supplemented by the competent authorities. From the statement in the impugned order it is clear that procedure including the age has been laid down separately. Hence, the submissions that Director General of Police rejected erroneously on the ground that petitioner was not 40 years of age cannot be accepted. In so far as the

submission of the petitioner that several person less deserving has been promoted, suffice it is say that present is not a case of consideration of promotion under para 454 rather it was a case fro consideration under 455 as directed by the U.P. Public Services Tribunal. The petitioner not being eligible for consideration under para 455, the factum of promotion of any other constable under 455 or 454 is irrelevant.

11. In view of above, I do not find error in the order of Director General of Police dated 29.8.1998 or interference under Article 226 of the Constitution of India.

12. The writ petition lacks merit and is dismissed.