

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Reserved On: 5th August, 2011
Judgment Delivered On: 11th August, 2011

+ W.P.(C) 1144/2011

PRATAP SINGH Petitioner
Through: Ms.Rekha Palli and Ms.Punam
Singh, Advocates

versus

UOI & ORS. Respondents
Through: Ms.Inderjeet Sidhu, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.

1. Petitioner was appointed as a 2nd In-Command under the Central Reserve Police Force and having a legal background was selected on deputation in CISF as an Assistant Inspector General (Legal & Regulation). Petitioner proceeded on deputation on 29.3.1996 and on 22.11.2002 was permanently absorbed as Assistant Inspector General (L&R) in CISF.

2. It be noted that the post of Assistant Inspector General (L&R) is an isolated post.

3. There being no legal department in CISF, in the year 2003 a proposal was submitted that CISF should have a cadre of persons trained in law.

4. Pending decision by the Cadre Controlling Ministry and the post of Assistant Inspector General (L&R) being an isolated post, petitioner started clamouring that a post of Deputy Inspector General (L&R) be created and he be promoted to the said post and for which clamour, justification given by the petitioner was that persons in the general cadre who were otherwise junior to him had earned a promotion and he found it embarrassing when he was required to stand in attention and salute those persons.

5. CISF Rules 2001 permit conferment of local rank, vide Rule 5 thereof, which reads as under:-

“5. Conferment of local rank. – Notwithstanding anything contained in these rules, the Director General may, subject to confirmation of the Central Government, grant to an officer of the Force a higher rank than held by him, as a local rank whenever considered necessary by him in the interest of better functioning of the Force-

(i) a local rank shall be conferred by the Director General up to and including the rank of Commandant only;

(ii) local rank to the officers of the level of Deputy Inspector General and above shall be conferred after prior approval of the Ministry of Home Affairs;

(iii) the power of conferring local ranks will not be further delegated by the Director General to any of the officers subordinate to him;

(iv) an officer of the Force who has been granted a local rank –

- (a) shall exercise the command and be vested with the powers of an officer holding that rank;
- (b) shall cease to hold that rank, if the grant of such rank is not confirmed within 21 days by the Central Government, or when so ordered by the Director General or when he ceases to hold the appointment for which the rank is granted;
- (c) shall not be entitled to any extra pay and allowances for holding such rank;
- (d) shall not be entitled to claim any seniority over other officers of the Force by virtue of having held such rank."

6. Vide order dated 5.11.2004 local rank was conferred upon the petitioner by and under order of even date which reads as under:-

"ORDER

Under the provision of Rule 5 of CISF Rules 2001, Shri Pratap Singh, AIG (L&R) is granted local rank of Deputy Inspector General with immediate effect with the approval of Central Government (Ministry of Home Affairs) in the interest of better functioning of the Force.

02. Upon conferment of local rank of DIG, he shall exercise the command and powers of an officer holding the rank of DIG.

03. The conferment of the local rank will be subject to the following conditions as specified in Rule 5 of CISF Rules 2001:-

- a) He shall cease to hold the above rank, when so ordered by the Director General or when he ceases to hold the appointment for which the rank is granted;

b) He shall not be entitled to any extra pay and allowances for holding such rank;

c) He shall not be entitled to claim any seniority over other officers of the Force by virtue of having held such rank.

04. He will function as local rank of DIG (L&R) against the post of AIG (L&R) in CIST Hqrs., New Delhi.

05. This issues with the approval of MHA vide their Dy.No.F-2815 dated 29.10.04.”

7. Petitioner accepted the order and since his stature i.e. the rank and not the pay got enhanced, he kept on pursuing the matter for him to be promoted on regular basis as Deputy Inspector General (L&R). He could meet success only by 25th November 2008 when the Presidential Sanction came upgrading the post of AIG (L&R) to that of DIG (L&R), but on personal basis till petitioner superannuated on 30th November 2008. Needless to state the benefit of the order dated 25th November 2008 was that the petitioner, soon before his retirement, was placed in Pay Band-4 from previous Pay Band-3 i.e. ₹37,400-67,000/- + grade pay ₹8,900/- and thus would receive pension at a higher rate.

8. Instant petition was filed praying that the petitioner be placed in the higher pay scale i.e. PB-4 w.e.f. 5.11.2004 when local rank as DIG (L&R) was conferred upon the petitioner.

9. Learned counsel for the petitioner would urge that it was the duty of the department to take note of the fact that the post of AIG (L&R) was an isolated post and it was their duty to provide for a promotional avenue. Counsel

urged that having worked on a higher post, principle of equal pay for equal work entitled petitioner to be placed in PB-4. Learned counsel relied upon a decision dated 6.3.1991 passed by a learned Single Judge of this Court deciding CW No.3409/1989 Sh.K.S.Ahluwalia Vs. UOI & Anr.

10. We have noted hereinabove that office order dated 5.11.2004 made it plain clear to the petitioner that the grant of local rank of Deputy Inspector General (L&R) would not entitle petitioner to any extra pay and allowances. Indeed, in the teeth of Rule 5 of the CISF Rules 2001, the department could not have placed the petitioner in the higher pay scale upon conferring local rank as Deputy Inspector General to the petitioner.

11. We need to understand as to what is meant by granting a person a local rank in the next above post. As explained by the Supreme Court in para 32 of the decision reported as 2004 (6) SCC 88 SI Paras Kumar & Ors. Vs. SI Ram Charan & Ors., grant of local rank is only '*ornamental in nature*'. We may note that in the said decision the Supreme Court was considering the Indian Police Act 1861 and the Punjab Police Rules pertaining to out of turn promotions and local rank promotion.

12. Indeed, Rule 5 of the CISF Rules 2001 makes it clear that local rank conferment is ornamental in nature and probably is intended to sooth ruffled feathers inasmuch as uniform services are highly egocentric and who salutes whom becomes a bone of contention and ego clashes create problems in the smooth running of the affairs by the organizations where the command structure centers heavily

on who reports to whom. It is only in this peculiar situation that we normally find local rank conferment in the forces and not in civil service.

13. The decision of the learned Single Judge relied upon is on its own peculiar facts and can be distinguished. K.S.Ahluwalia the petitioner therein was appointed as an Emergency Commission Officer in the Army and after release from the army was appointed as an Assistant Commandant in BSF on 1.11.1967. Earning promotions he became a Deputy Commandant and on 21.1.1982 was conferred local rank of Commandant and took charge as Commandant of the 29th Bn. on 22.1.1982. Working as local rank Commandant he met with an accident on 21.9.1982 and suffered spinal injury which disabled him. At a DPC held in October 1982 he was empanelled for promotion as a Commandant but no promotional order was issued as he was hospitalized. Unfortunately, K.S.Ahluwalia could not recover from the disability and remained hospitalized and could never join duty as a Regular Commandant till he superannuated on 31.1.1986.

14. It was under said circumstance that the Court granted relief to him directing that he be treated as a regular Commandant and paid salary in scale applicable w.e.f. 22.1.1982; though one would ordinarily have expected the Court to grant the benefit from the date persons junior to him were promoted pursuant to the DPC which met in October 1982 as that would have been more logical. Observations of the learned Single Judge of equal pay for equal work in the

said decision have to be understood in the context of the facts of the said case.

15. In the instant case Rule 5 of the CISF Rules 2001 occupies the field and we find that the vires of the Rule has not been questioned. Thus, petitioner cannot claim, much less on the principle of equal pay for equal work, that he be paid salary in PB-4 w.e.f. 5.11.2004. We highlight that as an Additional Inspector General (L&R) the petitioner was the highest officer in the Law Branch and he continued to perform the same duties when he was conferred local rank as Deputy Inspector General (L&R).

16. Finding no merit in the claim sought by the petitioner, we dismiss the writ petition but refrain from imposing any cost as we find the point raised arguable.

(PRADEEP NANDRAJOG)
JUDGE

(SUNIL GAUR)
JUDGE

AUGUST 11, 2011
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