

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.134 of 2020

Shri Jayant Kumar, aged about 51 years, S/o Dr. Birendra Prasad Pandey, permanent resident of Mahabir Colony, TetritoliNamkum and District Ranchi, Jharkhand – Pin – 834010. Presently residing at 73 BN. S.S.B, Shergaon, District West Kameng, Arunachal Pradesh – 790002.

....Petitioner

-Versus-

1. The Union of India, through the Secretary (Home), Ministry of Home Affairs, Government of India, North Block, New Delhi – 110001.
2. The Director General of Central Reserve Police Force, Govt. of India, Block No.-1, C.G. O. Complex, Lodhi Road, New Delhi – 110003.
3. Dr. SubhashDamle, Dy. I.G.P., Central Reserve Police Force, GC, C.R.P.F. Langjing, Imphal West, Manipur – 795113.
4. Shri K. Vijay Kumar, IG, J&K, Zone HQR, C.R.P.F., Bantalab Road, Barnai, Dina Nagar, NardaniBajwan, Jammu and Kashmir – 181206.

...Respondents

**BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

For the Petitioner :: Anjan Prasad Sahu, Advocate,

For the Respondents:: Mr. S. Samarjeet, Sr.PCCG

Dates of hearing :: 05-04-2023

Date of Order :: 25-04-2023

ORDER

Heard Mr. Anjan Prasad Sahu, learned counsel appearing for the petitioner and Mr. S. Samarjeet, learned Sr.PCCG appearing for the respondents.

[2] The present writ petition has been filed with a prayer for quashing and setting aside the order dated 3rd June, 2018 issued by the Director General, CRPF rejecting the representations submitted by the petitioner for upgradation of the gradings in his Annual Performance Appraisal Report (APAR) from 'good' to 'very good' as well as for quashing the grading recorded in his APAR for the period from 15-05-2016 to 25-11-2016 coupled with a prayer for directing the respondents to treat the gradings recorded in the petitioner's APAR for the period from 13-12-2016 – 31-03-2017 as the grading for the whole year, i.e., 2016-2017.

[3] According to the petitioner, he was posted as Commandant, 86th BN of CRPF, Manipur during the assessment period of his Annual Performance Appraisal Report (APAR), i.e. from 15-05-2016 – 25-11-2016. Subsequently, the petitioner's APAR for the period from 15-05-2016 – 25-11-2016 was communicated to him by the competent authorities of the CRPF under cover of a letter dated 15-09-2017. In the said part APAR of the petitioner for the period from 15-05-2016 to 25-11-2016 his grading was recorded as 'good'. Feeling aggrieved, the petitioner submitted two representations dated 06-10-2017 and

01-12-2017 to the Special Director General of Police, North Eastern Zone, CRPF, Guwahati and the Director General, Directorate, CRPF, New Delhi respectively, requesting for quashing the grading recorded in his APAR for the period from 15-05-2016 – 25-11-2016 and for treating the grading recorded in his APAR for the period from 13-12-2016 – 31-03-2017 as the grading of his APAR for the complete year i.e., 2016-2017.

[4] After considering the representation submitted by the petitioner, the Director General, CRPF, issued an order dated 3rd June, 2018 rejecting the said representation as being devoid of merit. Having been aggrieved, the petitioner approached this Court by filing the present writ petition for redressing his grievances.

[5] According to the petitioner, the grading recorded in his APAR in the last four years i.e., 2012-2013, 2013-2014, 2014 – 2015 and 2015 – 2016 are ‘very good’, very good’, ‘outstanding’ and very good’ respectively and that only for the period from 15-05-2016 – 25-11-2016, the grading recorded in his APAR is only ‘good’. However, for the period from 13-12-2016 – 31-03-2017, the grading recorded in his APAR is ‘very good’. According to the petitioner, the authorities have consistently given either the grading of ‘very good’ or ‘outstanding’ in his APAR in the last many years and that it is highly improbable that there would be a sudden downfall in his performance. It has been submitted on behalf of the petitioner that the grading of ‘good’ recorded in his APAR has an adverse effect on the petitioner’s chance for the next promotion,

inasmuch as, there is a possibility of being superseded by his juniors because of the grading of 'good' recorded in his APAR and accordingly, such grading of 'good' is a below benchmark grading and accordingly, it amounts to adverse grading.

[6] In the additional affidavit filed by the respondents, it has been categorically stated that the benchmark for promotion to DIG rank from Commandant in CPMFs as contained in the UO No. I-45024/1/2010-Pers – II dated 31-03-2010 of the Ministry of Home Affairs are as under:-

“Para 3 (b) : “Very Good”

An officer may be graded as “Very Good” if in the opinion of the Selection Committee his overall service record reflects that the officer has done highly meritorious work and possesses positive attributes and these characteristics are reflected in at least 4 of the last 5 ACRs. Further, in the opinion of the Selection Committee, the remaining ACR under consideration of the Committee should reflect that the officer’s performance is generally good, during the period of report. There should be no adverse entry in any of the ACRs under consideration of the Selection Committee.”

[7] In a subsequent additional affidavit filed by the respondents No. 1 & 2, it has been stated that the benchmark for promotion from Commandant to DIG as contained in Swami’s Establishment and Administration at para No. 6.3.1 is applicable and followed by the CRPF organization. The relevant portion of the said Para 6.3.1 is as under:-

“6.3.1 Principles to be observed and preparation of panel. – The list of candidates considered by the DPC and the overall grading assigned to each candidate, would form the basis for

preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of the panel:-

- (a) Mode of Promotion. – In the case of ‘selection’ (merit) promotion, the hitherto existing distinction in the nomenclature (‘selection by merit’ and ‘selection-cum-seniority’) is dispensed with and the mode of promotion in all such cases is rechristened as ‘selection’ only. The element of selectivity (higher or lower) shall be determined with reference to the relevant benchmark (“Very Good” or “Good”) prescribed for promotion.*
- (b) ‘Benchmark’ for promotion. – The DPC shall determine the merit of those being assessed for promotion with reference to the prescribed benchmark and accordingly grade the officers as ‘fit’ or ‘unfit’ only. Only those who are graded ‘fit’ (i.e., who meet the prescribed benchmark) by the DPC shall be included and arranged in the select panel in order of their inter se seniority in the feeder grade. Those officers who are graded ‘unfit’ (in terms of the prescribed benchmark) by the DPC shall not be included in the select panel. Thus, there shall be no supersession in promotion among those who are graded ‘fit’ (in terms of the prescribed benchmark) by the DPC.”*

[8] Mr. S. Samarjeet, learned Sr.PCCG appearing for the respondents submitted that in view of the benchmark for promotion to DIG rank from Commandant as quoted herein above, the petitioner will be graded as ‘fit’ for promotion since in the last five years the petitioner got four ‘very good’/‘outstanding’ grading in his APARs and one ‘good’ APAR and there is no possibility of the petitioner being superseded by his juniors in the matter of promotion to the rank of DIG. The

learned counsel also submitted that the authorities after assessing and evaluating the performance of the petitioner during the period from 15-05-2016 – 25-11-2016 gave the grading of 'good' in the petitioner's APAR and that the Director General, CRPF after due consideration rejected the representation submitted by the petitioner for upgradation of the gradings recorded in his APAR during the said period as being devoid of merit and accordingly, there is no ground or reason for allowing the prayer made by the petitioner.

[9] Mr. S. Samarjeet, learned Sr. PCCG further submitted that the petitioner's contention that the grading of 'good' recorded in his APAR during the period from 15-05-2016 – 25-11-2016 is a below benchmark/adverse grading and that such grading will have an adverse affect on his chance of promotion to the post of DIG is unfounded and misconceived. The learned counsel accordingly submitted that the present writ petition is liable to be dismissed as being devoid of merit.

[10] In the guidelines dated 31-03-2010 issued by the Ministry of Home Affairs regarding benchmark for promotion especially from Commandant in CPMFs to DIG rank, which is enclosed as Annexure/C-13 in the additional affidavit dated 31-05-2022 filed by the respondents No. 1 & 2, it is provided, inter alia, that an Officer may be graded as 'very good' if he possess at least four 'very good' gradings out of five ACRs/APARs and the remaining ACRs/APARs under consideration is graded as 'good'. In the affidavit dated 14-03-2023 filed by the respondents No. 1 & 2, it has been stated that the principles to

be observed in preparation of panel as contained in para No. 6.3.1 of Swami's Establishment and Administration is applicable and followed in the CRPF organization. In para No. 6.3.1(b) of the said Swami's Establishment and Administration, it is provided that the DPC shall determine the merit of those being assessed for promotion with reference to the prescribed benchmark and accordingly, graded the officers as 'fit' or 'unfit' and only those who are graded 'fit' by the DPC shall be included and arranged in the selected panel in order of their inter se seniority in the feeder grade and that there shall be no supersession in promotion among those who are graded 'fit' by the DPC.

[11] After perusal of the additional affidavit filed by the respondents No. 1 & 2 and on careful examination of the guidelines dated 31-03-2010 issued by the Ministry of Home Affairs regarding benchmark for promotion as well as provisions under para No. 6.3.1 (b) of the Swami's Establishment And Administration regarding principles to be observed and preparation of panel, which is applicable and followed in the CRPF organization, this Court is of the considered view that if the case of the petitioner is considered by the authorities for his promotion to the rank of DIG by taking into consideration his last five years APARs starting from 2012-2013 to 2016-2017, he will be deemed fit for promotion to the rank of DIG under the CRPF since the petitioner got three 'very good' and one 'outstanding' grading out of five APARs and the remaining one APAR being graded as 'good'.

[12] In view of the above, this Court cannot agree with the submission advanced by the learned counsel for the petitioner that the grading of 'good' recorded in the petitioner's APAR during the period from 15-05-2016 – 25-11-2016 is a below benchmark grading and such grading will have adverse effect on the petitioner's chance for promotion to the rank of DIG. Since this Court is of the considered view that the grading of 'good' recorded in the petitioner's APAR during the period from 15-05-2016 – 25-11-2016 is not an adverse entry and since such grading will not adversely affect the petitioner's chance of promotion to the rank of DIG, this Court is not inclined to entertain the present writ petition and accordingly, the same is hereby dismissed as being devoid of merit.

[13] In the facts and circumstances of the present case, there will be no order as to cost.

JUDGE

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