

**HIGH COURT OF TRIPURA
AGARTALA**

WA 34 of 2021

Qazi Ifran Jeelani

Son of late Qazi Ghulam Jeelani,
Resident of 88/307, Nala Road, Chamanganj, Kanpur,
Uttar Pradesh, PIN: 208001, presently posted in Group Centre, CRPF,
Salbagan, Agartala, District: West Tripura

---Appellant(s)

Versus

1. **The Union of India**
Represented by the Secretary,
Ministry of Home Affairs having his office at South Block,
New Delhi: 110001.
2. **The Secretary,**
Ministry of Home Affairs, Government of India,
having his office at South Block, New Delhi-110001
3. **The Director General,**
Central Reserve Police Force,
Having his office at Central Reserve Police Force,
Tripura Sector Headquarters, Usha Bazaar,
Airport Road, Agartala-799009.
4. **The Inspector General,**
Central Reserve Police Force,
having his office at Central Reserve Police Force,
Tripura Sector headquarters, Usha Bazar,
Airport Road, Agartala 799009.
5. **The Commandant,**
82nd Battalion, Central Reserve Police Force,
Ikhwan Hotel, Khanyar, Srinagar, Jammu & Kashmir.

---Respondent(s)

For Appellant(s)	: Mr. Somik Deb, Sr. Adv. Mrs. Riya Chakraborty, Adv.
For Respondent(s)	: Mr. B. Majumder, Deputy SGI
Date of hearing & date of delivery of judgment and order	: 26.07.2023
Whether fit for reporting	: No

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH**

Judgment & order (Oral)

(T. Amarnath Goud), J

Heard Mr. Somik Deb, learned senior counsel assisted by
Mrs. Riya Chakraborty, learned counsel appearing for the appellant as
well as Mr. B. Majumder, Deputy SGI appearing for the respondents.

[2] This is an appeal under Rule 2 of Chapter V-A of the Gauhati
High Court Rules read with Article 226 of the Constitution of India, against

the impugned Judgment & Order dated 03.12.2020 passed in WP(C)No.387 of 2020 between Qazi Ifran Jeelani and the Union of India & Others whereby the Hon'ble single Judge has dismissed the writ petition.

[3] The reliefs sought for in WP(C) No.387 of 2020 may be reproduced here-in-below:

- (i) *Issue Rule calling upon the respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for transmitting the records lying with them and for quashing/setting aside the impugned Annual Performance Appraisal Report of the petitioner, for the period stretching from 01.04.2013 to 31.03.2014 the impugned Order dated 11.03.2016 the impugned letter dated 29.07.2016 & the impugned Order dated 03.02.2020.*
- (ii) *Issue Rule upon the respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof shall not be issued mandating/commending them to revoke/rescind the impugned Annual Performance Appraisal Report of the petitioner, for the period, stretching from 01.04.2013 to 31.03.2014, the impugned order dated 11.03.2016, the impugned letter dated 29.07.2016 & the impugned order dated 03.02.2020*
- (iii) *Issue Rule calling upon the respondents and each one of them to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued mandating/commending them to grant promotion to the petitioner to the post of Second-In-Command (2-I/C), CRPF, with retrospective effect from 20.10.2016 i.e. the date wherefrom his next below junior, namely Sri Manish Bamola, was promoted to the said post of Second-In-Command (2-I/C), CRPF, thereby restoring his seniority and consequently grant all monetary & consequential benefits with effect from the said date and further direct them to grant the benefits with effect from the said date and further direct them to grant the benefits of NFSG & NFFU alongwith the pay scale of Commandant, with effect from 15.06.2017 in favour of the petitioner as has already been accorded to his juniors;*
- (iv) *Call for records appertaining to this writ petition;*
- (v) *After hearing the parties be pleased to make the Rule absolute in terms of (i) to (iii) above.*
- (vi) *Costs of and incidental to this proceeding;*
- (vii) *Any other Relief(s) as to this Hon'ble High Court may deem fit and proper.*

[4] After hearing the learned counsel for the parties, the learned Single Judge has observed in the following manner while dismissing the petition of the petitioner:

"6. I do not find that the petitioner has made out sufficient grounds to ignore long and inordinate delay in filing the writ petition. Till July, 2016 when the petitioner was representing against the adverse entries before the department, he had no cause or reason to approach the High Court. However, once the Director General of CRPF rejected his representation, the petitioner had to have taken his legal options. The petitioner cannot explain the delay by suggesting that as and when he was bypassed in promotion he had a right to challenge the adverse entries. Even in this respect the petitioner's first supersession happened in the year 2016. Looked from any angle the petition is belated without any reasonable explanation for such delay. The petitioner is an educated Government servant holding a high Government post. He cannot plead lack of resources, awareness or advice preventing him from filing the petition in time."

[5] Being aggrieved and dissatisfied with the impugned order dated 03.12.2020, the appellant has preferred the present writ appeal before this court.

[6] It is the case of the appellant that he joined the service of Central Reserve Police Force (CRPF, for short) as an Assistant Commandant in November, 2001. On 04.02.2009 he was promoted to the post of Deputy Commandant. For the period of 2013-14 there were adverse entries in his APAR which were communicated to him on or around 12.01.2015. The gist of the adverse entries was that he did not carry out the responsibilities entrusted to him with full dedication. He does not take interest in the duties assigned to him. Close watch is necessary over the discharge of his duties. For these shortcomings periodically oral as well as written instructions and warnings have been given to him.

[7] Against such adverse entries made by the Reporting Officer in the appraisal report, the Reviewing Officer without any modifications confirmed the APARs. Once these adverse entries were communicated to the appellant, he made a representation to the IGP of CRPF on 26.01.2015. He treated these adverse entries as downgrading his appraisal since compared to the previous years the appraisal of the said year was poorer. He alleged that the Reporting Officer was prejudicial in making such remarks and there was no basis for such remarks. The representation of the petitioner was rejected by the Deputy Inspector General by an order dated 11.03.2016. The appellant thereupon filed a further representation to the Director General on 15.05.2016. This representation was rejected by the Director General by an order dated 29.07.2016. The appellant thereafter took no steps to challenge the said adverse entries or the orders rejecting his representations. In the year 2016 the department considered further promotions to the post of

Second-In-Command in which the petitioner was within the zone of consideration. His juniors were promoted. The appellant was not; on account of the said adverse entries. This was repeated in the year 2018 and thereafter lastly in February, 2020.

[8] The learned single judge has dismissed the writ petition being WP(C)387 of 2020 by the order dated 03.12.2020. Aggrieved by the said order dated 03.12.2020, the appellant has approached this court for seeking relief.

[9] Heard learned counsel for the parties.

[10] Mr. Somik Deb, learned senior counsel appearing for the appellant has submitted before this court the learned single judge has failed to appreciate that the supersession of the appellant by his juniors vide the Orders of Promotion were based solely on the downgrading of the APAR of the appellant and therefore the substantive relief sought for by the appellant was the interference as to such downgrading in the APAR. It is further submitted that such a challenge to the downgrading in the APAR can even be maintained stand alone, irrespective of the consequential relief as to the supersession, and therefore the Judgment & Order dated 03.12.2020 merits interference of this court.

[11] It is further contended by the counsel for the appellant that the impugned APAR, 2013-14 was downgraded from consistent 'Very Good' as recorded in the previous 5 years to 'Good' which is an adverse entry, without issuing any Show Cause Notice therefore and thereby depriving him to confront the same. It is also contended that no opportunity of hearing was provided to the appellant, whereby he could have raised his defence there against.

[12] On the contrary, Mr. B. Majumder, learned Deputy SGI appearing for the respondents has submitted before this court that the impugned order dated 03.12.2020 is just and proper and does not

required any interference from this court and the case needs to be rejected.

[13] We have perused the record and having considered the submission as advanced by the learned counsel for the parties, we are of the view that the Ld. Single Judge has made no mistake while dismissing the petition on the ground of laches committed on the part of the petitioner and the same is not interfered with and so also with regard to the gradation is not interfered with.

[14] However, in view of the petitioner's overall performance, the respondents in a pragmatic view may reconsider the promotion of petitioner, if possible. Therefore, to deal with matter in respect of the promotion, the present case is remanded back to the respondents. It is also made clear that while dealing with the issue of the appellant the respondents shall consider the principle laid down by Hon'ble Supreme Court in **Haryana State Electricity Board vs State of Punjab and Others** reported in **1974 (3) SCC 91** and also in **Union of India & Ors vs C. Girija and others** reported in **(2019) 15 SCC 633**. The respondents shall consider the case of the petitioner in accordance with law within a period of three months from the date of receipt of the copy of this order.

[15] In view of the above, the instant writ petition stands disposed of to the extent as indicated above. As a sequel, stay, if any, stands vacated. Pending application(s), if any also stands closed.

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