

Court No. - 34

Case :- WRIT - A No. - 10038 of 2020

Petitioner :- Awadhesh Kumar Yaduvanshi

Respondent :- State Of U.P. And 9 Others

Counsel for Petitioner :- Harshit Pathak, Anurag Pathak, Shashank Veer Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard Sri Anurag Pathak, learned counsel for the petitioner and Sri P.K. Srivastava, learned Additional Chief Standing Counsel.

2. Petitioner is seeking promotion from the post of Constable to the post of Head Constable (Motor Transport) in the Civil Police and submits that while the respondents proceeded to consolidate the vacancies from 2008 to 2018 to consider the candidature of the eligible candidates for promotion, petitioner's candidature for the year 2017 and 2018 have been accorded consideration without taking into account the cash rewards that he received for his good services on 17.05.2016, 20.01.2016 and 14.05.2017 and also excellent (Uttam) entry that stood to his credit on 30.01.2016.

3. He submits that for each reward the Recruitment and Promotion Rules vide its appendix proceeded for 0.5 marks and to the maximum of five marks in total for consideration of candidature in the year of recruitment when eligibility is being examined. He submits that he has no grievance for previous years but in 2017 and 2018 years of recruitment since these entries were not there entered in his character roll as per the respondent's own admission as is reflected from the letter of Superintendent of Police, Chandauli dated 09.09.2020, he could not be awarded 2 marks for these 4 entries. Specific plea to this effect has been taken in para 12 of the writ petition and to demonstrate further learned Advocate has taken the Court to the allotment of marks to the petitioner in the consolidated chart prepared in his respect for consideration of his candidature vide Annexure No. C.A.-1 at page 22-23. He submits that while he has been awarded 1.5 marks for last 10 years' service for the year 2015-16 in the year 2016 and 1.5 marks for the year 2016-17 in the year 2017 and 0.5 marks in the year 2018 for the last 10 years 2008-2017 in the category of rewards and good entry evaluation in specific chart for the relevant year of marks to the entry records at page 23 of the counter

affidavit.

4. Sri Srivastava on the contrary submits that the reference to the vacancy is of the relevant year in which it had occurred or rather was put to selection and that is why year-wise eligibility has been tested and it cannot be said that petitioner could have been awarded marks for the good entry or award in the year 2016 for the consideration in the year 2017 referring to the definition of year of recruitment as contained under the relevant service rules. He submits that the hectic exercise must have been carried out in preparing the list considering the various categories in which the marks could have been allotted and this Court may not go into that fact related result over the issue in question.

5. Having heard learned counsel for the respective parties and having perused the records and relevant service rules, in the first instance I find that though the vacancies were consolidated for the purposes in the year 2018 but they are referable to different years for the purposes of eligibility right starting from 2008. The relevant chart that shows eligibility and result negating the petitioner's claim on merit on the ground of not attaining the marks matching with the last cut off calculating both the written examination and the marks as per service records, I find that the year of recruitment would be therefore, between the year in which the respondents proceed to carry out the recruitment exercise whether by way of direct recruitment or by promotion.

6. The argument therefore, advanced by Sri Srivastava on that count as to the eligibility in the relevant year would hardly have any bearing in so far as the eligibility of the petitioner is concerned because he has been found eligible right from the year 2008 to 2018.

7. In so far as the argument advanced by learned counsel for the petitioner is concerned, that the cash awards having not been entered in character roll and so also the excellent (Uttam) entry, I find that the Superintendent of Police to have himself admitted that consideration could not have been accorded for the entry having not been there. In the circumstances, therefore, it goes without saying that the relevant cash awards dated 17.05.2016, 20.01.2016 and 14.05.2017 and also the entry whether best or excellent whatever may it may be described, dated 13.05.2016 were not accorded due consideration and so the marks 0.5 for each of such entry could not be given to the petitioner. This is also apparent from page 23 of the chart appended to the counter affidavit. Resultantly therefore, in 2016 and 2017 petitioner could not be

awarded marks for the cash awards and the excellent (Uttam) entry respectively.

8. Besides the above, I do find that in para 12 specific stand has been taken to which the reply though has been submitted in para 10 of the counter affidavit but it says that recording of marks being year wise even for the awarded entries, petitioner's claim could not be considered. This reply in para 10 of the counter affidavit does not appeal to reason for the simple reason that the chart appended at page 22 of the counter affidavit clearly shows that the marks in that category of awards and good entry of the last 10 years have been taken into account but the second chart appended at page 23 shows that for the year 2016-17 specific entries have not been taken into account. So the result has been that while previous entries have been carried forward which fell within the zone of 10 years but the entries specific to the year 2016-17 which would have been added up to previous entries within the time zone of 10 years, have been left out. This could have been due to inadvertent mistake for there being no such entry in the character roll of the petitioner. In the circumstances, I find merit in the submissions advanced by learned counsel for the petitioner.

9. In view of the above, writ petition succeeds and is **allowed**. Direction is issued to the respondents to consider the entries dated 17.05.2016, 20.01.2016 and 14.05.2017 and the award of good/best (Uttam) entry dated 13.01.2016 by allotting marks 0.5 to each such entry in the relevant year and to place them within the time zone of 10 years for consideration and then pass orders as to whether petitioner still to be held eligible for promotion and if that is so, may award promotion benefits to him accordingly. The appropriate orders shall be passed within a period of two months from the date of production of certified copy of this order.

Order Date :- 1.11.2023

IrfanUddin