

Court No. - 20

Case :- WRIT - A No. - 7337 of 2023

Petitioner :- Chandra Bhan Singh

Respondent :- Union Of India Thru. Secy. To The Ministry Of Home Affairs New Delhi And 3 Others

Counsel for Petitioner :- Deep Narayan Tripathi

Counsel for Respondent :- A.S.G.I.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioner and Mr. S. B. Pandey, Senior Advocate, Deputy Solicitor General of India assisted by Mr. Varun Pandey, learned counsel for opposite parties
2. Petition has been filed seeking a direction to opposite parties to consider petitioner's case for conferment of promotion as Sub-Inspector and Inspector following the procedure as per Standing Order No.01/2015 at par with juniors and batch-mates and for giving all service benefits accordingly.
3. At the very outset, learned counsel for opposite parties has raised a preliminary objection regarding maintainability of this petition before this Court in view of fact that prayer made is primarily for promotion which is required to be decided by an authority situated in New Delhi. It is submitted that none of the opposite parties are within the territorial jurisdiction of this Court and therefore this petition is liable to be dismissed on the ground of lack of territorial jurisdiction alone.
4. In response thereto, learned counsel for petitioner submits that earlier petitioner was dismissed from service vide order dated 26.05.1992 and appeal thereagainst was also rejected. The aforesaid orders were challenged by petitioner in Writ Petition No.1719 of 1998 (S/S) and was allowed vide judgment and order dated 24.02.2010 directing petitioner to be reinstated in service with consequential benefits except for back wages. It is submitted that since dismissal order of 1992 was quashed

only in year 2010, in the meantime similarly situated persons had already been granted promotion and therefore petitioner is only seeking parity with the aforesaid persons due to which relief as prayed for in this petition would amount to consequential benefits in terms of directions issued by this Court earlier. It is submitted that against judgment and order dated 24.02.2010, Special Appeal No.433 of 2010 was filed and was also dismissed vide judgment and order dated 25.09.2012, which attained finality.

5. It is also submitted that petitioner thereafter filed Contempt No.2359 of 2018 which was disposed of finally vide order dated 01.08.2019 in which direction was issued that petitioner's claim for promotion may also be considered.

6. In view of aforesaid, it is submitted that petitioner would have a part cause of action arisen within the territorial jurisdiction of this Court. Learned counsel has also relied upon a judgment rendered by Hon'ble the Supreme Court in **Nawal Kishore Sharma v. Union of India and others**, reported in (2014) 9 SCC 329 .

7. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it is evident that earlier petitioner had filed a petition before this Court challenging his dismissal from service in the year 1992. The said petition was allowed in the year 2010 with all consequential benefits. It is the case of petitioner that in the meantime owing to dismissal order, persons with whom parity is being sought were in fact promoted in service depriving petitioner of his claim. It is also evident that contempt petition was also preferred before this Court in which further directions were also issued while disposing of the same.

8. It is a relevant fact that under clause (2) of Article 226 of the

Constitution of India, a High Court exercising jurisdiction in relation to territories within which the cause of action, wholly or in part, arises can issue directions even to authorities who are not strictly within territorial jurisdiction of that particular High Court.

9. In the present case, it is evident that petitioner was dismissed from service in year 1990, which order was finally quashed by this Court in year 2010 with consequential benefits. Contempt Petition preferred by petitioner was also entertained and disposed of by this Court making observations regarding consideration of petitioner for promotion.

10. Although it is quite evident that neither is the petitioner posted within the territorial jurisdiction of this Court nor any of the opposite parties are posted within the territorial jurisdiction of this Court but at the same time, this Court is of the opinion that since only a writ of Mandamus for consideration of petitioner's case for promotion has been sought which may be relatable to the aspect of such promotion having been denied as a consequence of petitioner's dismissal from service in year 1992, which was ultimately quashed by this Court in year 2010, it would definitely have a bearing with regard to the present relief as sought before this Court. Had the aspect of mere prayer for consideration for promotion being sought as a prayer apart from the earlier order of dismissal, certainly no part cause of action would arise to petitioner but in the present case, the part cause of action would definitely be made out in view of deprivation of petitioner's claim for promotion with regard to earlier order of dismissal and against which petitions were entertained before this Court.

11. In view of aforesaid, this Court is of the considered opinion that part cause of action would arise in favour of petitioner

before this Court and for that purpose, this petition is held to be maintainable before this Court.

12. So far as prayer of petitioner is concerned, it is clear that only a writ in the nature of Mandamus has been sought regarding petitioner's claim for consideration of promotion on the post of Sub-Inspector and Inspector.

13. With regard to aforesaid grievance, petitioner has already submitted a representation but seeks liberty to file a fresh representation before the authority concerned which, it is submitted, may be directed to be decided.

14. Considering the innocuous prayer, without entering into merits, liberty is granted to petitioner to file a fresh representation before opposite party no.2 i.e. the Director General of CRPF, CGO Complex, Lodhi Road, New Delhi who shall consider and decide the same within a period of eight weeks from the date a certified copy of this order is produced before the said authority along with fresh representation.

15. With aforesaid observations and directions, the petition is finally **disposed of**.

Order Date :- 30.10.2023

kvg/-