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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 06.08.2024

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W.P.(C) 5385/2010 & CM APPL 44725/2024

BP VASHIST

.....Petitioner

Through: Dr. S.S. Hooda, Advocate

versus

UOI AND ORS

.....Respondents

Through: Mr. Ruchir Mishra, Mr. Mukesh Kr.
Tiwari and Ms. Reba Jena Mishra,
Advocates for R1 & R2**CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T (O R A L)**

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking the following prayers:

“(A) Issue a Writ of Mandamus directing the Respondents No.1 and 2 to upgrade the post of Deputy Inspector General / Chief Law Officer held by the Petitioner to that of Inspector General / Chief Law Officer as a measure personal (In-situ promotion) as has been done in the case of Respondent No.3, who is similarly situated as the Petitioner;

(B) In the event prayer (A) is not granted, a Writ of Certiorari may be issued quashing the order dated 26.05.2010 vide which the Respondents No.3 has been promoted to the rank of Inspector General as a measure personal (in-situ promotion); and



(C) Pass any other order / direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The case of the petitioner is that the petitioner has been performing his duties as a Chief Law Officer with utmost dedication for the past 12 years. The respondent No.2 had sent a proposal for grant of local rank of IG to the petitioner in June / July 2008 but the same was referred back. Thereafter in 2009, again the name of the petitioner as well as respondent No.3 were forwarded to respondent No. 1 for its approval to grant them local rank of IG but the same was returned vide order dated 24.08.2009 on the ground that the proposal to grant local rank to the petitioner and respondent No. 3 could not be acceded due to administrative reasons.

3. Accordingly, both the petitioner and respondent No.3 continued to work as Chief Law Officers in the rank of Deputy Inspector General. Thereafter, the respondent No.2 through his DO letter No.37236/16/15/2005-Pers/BSF dated 24.09.2009 sent a request to respondent No. 1 to upgrade the post of Deputy Inspector General / Chief Law Officer held by respondent No.3 as Inspector General as a measure personal to him (*in situ promotion*).

4. The aforesaid recommendation was accepted by respondent No. 1 and vide order dated 26.05.2010, the respondent No. 1 passed an order upgrading only the post of Chief Law Officer (*pay-scale Rs.37,400- 67,000 + Grade Pay Rs.8,900*) held by respondent No.3 as Inspector General / Chief Law Officer (*Pay-scale of Rs.37,400-67,000 + Grade Pay Rs. 10,000/-*) as a measure personal to him (*in situ promotion*) till further orders or his superannuation i.e., 31.01.2011 whichever was earlier.



5. Learned counsel appearing on behalf of the petitioner submits that perusal of the aforesaid order would show that no reason had been stated therein to grant such an *in situ* promotion to respondent No.3 and that too by ignoring the case of the petitioner who was also working as a Chief Law Officer since 01.09.2001 and that a direction had been passed to keep one post of Law Officer Grade 1 (*Commandant*) in the Grade Pay of Rs.8700/- in abeyance.

6. The petitioner, being aggrieved by the discriminatory treatment met out to him, made a representation dated 02.06.2010 to the Hon'ble Home Minister but did not receive any reply till date though he had learned that his representation had been rejected by respondent No. 1 on 28.07.2010 and since the petitioner superannuated on 31.08.2010, he had no other remedy except to approach this Court.

7. In paragraph 12 of the present petition, it is stated that a proposal for upgrading the post of Chief Law Officer held by respondent No.3 to the rank of Inspector General as a measure personal to him was on the following grounds:

(i) Following procedural formalities for upgradation of post of Chief Law Officer to the rank of Inspector General will be a lengthy process and the officer will be superannuating on 31.01.2001.

(ii) Stagnation in Law Branch.

(iii) Respondent No.3 was heading Law Branch, BSF.

(iv) The officers who became DIG in GO Cadre after the promotion of Respondent No.3 as Chief Law Officer / DIG had already become Inspector General.

(v) Respondent No.3 has Meritorious service.

(vi) There was substantial increase in the workload of Law Branch and Respondent No.3 now delivering



*lectures in BSF Law Institute being run on ad-hoc basis.
(vii) No financial implication was involved.*

8. Learned counsel for the petitioner submits that the action of the respondents no. 1 and 2 in upgrading only one post of Chief Law Officer and that too as a measure personal to respondent no.3 is wholly without any basis. The actions of respondents No. 1 and 2 in not granting the same relief to the petitioner as has been given to respondent No.3 is wholly discriminatory and arbitrary.

9. It is not in dispute that the petitioner joined as a Law Officer in the Law Branch on 01.03.1985 whereas the respondent No. 3 had joined on 01.06.1981. Therefore, it is an admitted fact that the petitioner was junior to respondent No. 3 in the Law Branch but as per the date of joining the BSF, the petitioner was much senior to respondent No.3 as the petitioner joined on 01.09.1973 whereas the respondent No.3 joined on 02.02.1976. Also, not only the batch-mates of the petitioner in the General Duty have already been promoted as Inspector General but even one of his juniors, Mr. A. M. Bhatnagar has already become Inspector General and the petitioner because of the stagnation in the Law Branch had superannuated as DIG on 31.08.2010.

10. On the last date of hearing, this Court put a query to the petitioner that in view of the order dated 23.11.2023, the present petition *prima facie* appeared to be an exercise merely to satisfy petitioner's ego. Consequently, the petitioner filed an application being CM APPL 44725/2024 seeking permission to delete prayer (B).

11. Relevant paragraphs of the order dated 23.11.2023 read as under:



4. *Learned counsel for petitioner submits that he would be satisfied even if he is not promoted but respondent no. 3 is demoted to the rank of DIG.*

5. *We also note that as per the record produced today, even if the petitioner had been, as proposed, promoted to in situ rank of Inspector General, it would have been without any financial implication.*

6. *It thus prima facie appears to be an exercise to satisfy petitioner's ego.*

7. *Accordingly, list on 15.05.2024 for further consideration. The relevant record be produced again on the next date.*

12. The main ground of the petitioner, in the present writ petition, is that the *in-situ* promotion has wrongly been granted to the respondent No. 3. It is not in dispute that the petitioner retired way back in 2010 and is seeking *in-situ* promotion. The present petition is merely on an academic issue and ego as *in-situ* promotion was granted to respondent No.3.

14. In view of the above, we find no merit in the present petition and the same is, accordingly, dismissed. Consequently, the application being CM APPL 44725/2024 seeking permission to delete prayer (B) stands also dismissed.

**SURESH KUMAR KAIT
JUDGE**

**GIRISH KATHPALIA
JUDGE**

AUGUST 6, 2024/as

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