

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1881 of 1998

=====

Sri Ganesh Ram S/o Late Sri Singhasan Ram, resident of village- Kandsar, PO Kandsar, PS Nawangar, Buxar at present posted as Reserved Inspector, Training Task Force, Patna

.... Petitioner

Versus

1. The State of Bihar
2. Director General-cum-IG Police, Bihar, Patna
3. Home Commissioner, Government of Bihar, Patna
4. D.I.G., Administration, Bihar Patna

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Gouranga Chatterjee, Advocate
Mr. Suresh Mishra, Advocate

For the Respondents: Mr. Rajesh Kumar, AC to AAG 3

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

CAV JUDGMENT

Date: 22 -06-2015

1. The petitioner seeks a direction to the respondents to grant him Senior Selection Grade and Supertime scale which, according to him, is due since 1984. The petitioner was initially appointed as Constable in Bihar Police in the year 1960 and in course of time he was promoted to the rank of Havildar. Subsequently, he was promoted as Jamadar in the year 1975 and Subedar in the year 1979. The post of Jamadar and Subedar are now known as Reserved Sub Inspector (Training) and Reserved Inspector (Training).

2. The petitioner's case is based on a circular dated 12.07.1982 issued by the then Inspector General of Police, Bihar with respect to grant of Senior Selection Grade and Supertime scale. It is his case, based on the said circular, that seniority and satisfactory

service record is the only criteria for grant of Senior Selection Grade and Supertime scale if the vacancies are available. According to him, 15 vacancies in Senior Selection Grade and 4 vacancies in Supertime scale are available since 1984.

3. This writ application has remained pending since 27.02.1998, which was admitted for hearing on 09.05.2000, I presume that the petitioner must have retired long back from service.

4. For the same relief, the petitioner had earlier come to this court by filing CWJC No. 4237 of 1994, which was disposed of by an order dated 14.07.1995 with a direction to the respondents to consider the case of the petitioner and other similarly situated eligible candidates for grant of promotion to Senior Selection Grade and Supertime scale. It appears that against the said order of this court a Letters Patent Appeal being LPA No. 945 of 1995 was preferred by the State of Bihar which was dismissed by an order dated 03.11.1995. The petitioner had filed a contempt petition before this court alleging disobedience of this court's order dated 14.07.1995 passed in CWJC No. 4137 of 1994. Finally, the Director General of Police, Bihar, respondent No.2, vide an order dated 11.02.1997 rejected the petitioner's claim for grant of Senior Selection Grade and Supertime scale, which order has been brought on record by way of annexure-5 to the writ application. The ground for rejection, as mentioned in the order dated 11.02.1997, is that grant of Junior Selection Grade, Senior



Selection Grade and Supertime scale is for basic posts only and the benefit is not available to promotional posts. In the case of petitioner, the post of Constable is admittedly the basic grade and the post of Reserved Sub Inspector (Training) and Reserved Inspector (Training) are promotional posts. The Director General of Police assigned the reason for refusing the petitioner's claim for grant of Senior Selection Grade and Supertime scale that after having already been given promotion, he could not be given benefits of Senior Selection Grade or Supertime scale.

5. A counter affidavit has been filed on behalf of respondents stating therein that the State Government had accepted the recommendations of Fourth Pay Revision Committee in respect of grant of Selection Grade. It has been stated that as per the recommendations 20% posts for Junior Selection Grade, 12% for Senior Selection Grade and 2.5% for Supertime scale is admissible on the basis of total sanctioned strength of the cadre which in the present case includes total posts of Constables, Havildar, Jamadar, Reserved Sub Inspector (Training) and Reserved Inspector (Training) jointly and not separately. It has been stated that formerly under the orders of the State Government vide Finance Department's resolution No. 3/ PAR-4/5175 dated 20.04.1981 and 3/PAR-02/8/4176 dated 20.04.1981 25% Selection Grade promotions were provided in each post of the Police cadre with effect from 01.05.1980 but with the



recommendation of Fifth Pay Revision Committee, promotion of 20% in Junior Selection Grade, 12% in Senior Selection Grade and 2.5% in Supertime Scale has been provided on the total strength of cadre. Since previously 20% in Junior Selection Grade was provided against each post of the cadre, clarification and instruction was sought for from the Finance Department in this regard. The Finance Department, Government of Bihar advised that promotion in Senior Selection Grade was admissible only on the basic posts of the cadre and not on each promotional post of the cadre. The Finance Department clarified that the promotional posts were themselves to be treated as Selection Grade posts. It has accordingly been contended in the counter affidavit that Senior Selection Grade promotion is not available to Reserved Inspector (Training). It has also been stated that the Police department acted on the advice of the Finance Department, which is the ultimate authority in financial matters like pay scale and posts.

6. Mr. Gouranga Chatterjee, learned counsel appearing on behalf of the petitioner, has submitted that the respondents have been changing their stand before this court from time to time as would be evident from the counter affidavit, which they had earlier filed in CWJC No. 4137 of 1994. He has submitted that Junior Selection Grade, Senior Selection Grade and Supertime scale is available to each post in the same proportion as suggested by the Fourth Pay Revision Committee in its recommendations which was subsequently



accepted by the State Government. He contends that the plea that Junior Selection Grade, Senior Selection Grade and Supertime scale are available only for the basic posts is contrary to their earlier decision. He has drawn my attention to letter dated 12.02.1996 issued by the Director General-cum- Inspector General of Police, Bihar which contains decision of the Director General of Police to grant Junior Selection Grade, Senior Selection Grade and Supertime scale to Reserved Inspector (Training) taking the number of total posts of Reserve Inspector (training) and not the entire cadre as a whole.

7. Mr. Rajesh Kumar, learned AC to AAG 3, appearing on behalf of the respondents- the State of Bihar, while defending the order of Director General, Police dated 11.02.1997 (annexure-5), has submitted that the benefit of Junior Selection Grade, Senior Selection Grade and Supertime scale are extended to overcome stagnation in a cadre. He has, accordingly, submitted that taking the cadre as a unit, the posts are identified as Junior Selection Grade post, Senior Selection Grade post and posts for which Supertime scale can be made admissible. He has referred to State Government decision, while accepting the general recommendation of Fourth Pay Revision Committee in respect of Selection Grade and has contended that such grades are to be given on the basis of total strength of a cadre and not on the basis of posts.

8. From the rival pleadings and submissions made on



behalf of the parties, the only question which requires consideration in the present case is as to whether in the light of acceptance of recommendation of Fourth Pay Revision Committee, the Selection Grades are admissible taking entire cadre strength of a service or on the basis of number of posts. The other question would be that when a person has been granted promotion on a post which has the scale of Senior Selection Grade or Supertime scale, he can still claim further enhancement of pay treating the total number of posts in a cadre as a unit.

9. In my opinion, it would be apt to refer to the decision of the State Government itself in this regard while accepting recommendations of Fourth Pay Revision Committee in respect of Selection Grade which reads thus:-

“10. The general recommendations of the Fourth Pay Revision Committee in respect of Selection Grade are as follows:-

(i) Selection Grade should be provided in all services, cadres and posts.

(ii) There should be normally two levels of Selection Grade for all cadres and posts to be known as the Junior Selection Grade and the Senior Selection Grade. For the State services, the Committee have recommended continuance of two Selection Grades to be known as the Junior Selection Grade and the Senior Selection Grade, and a Supertime scale, existing at present.



(iii) *The Junior Selection Grade should consist of 20 per cent of the total cadre and the Senior Selection Grade, 10 per cent of the total cadre. The actual number should be determined for particular cadres taking into account the normal promotion prospects already existing for the cadre so that the first and second levels of promotion inclusive of the Selection Grade remains at least 20 per cent and 10 per cent respectively. In case of the State Services, however, the percentage of junior and senior selection grade should be 20 per cent and 12.5 per cent respectively and, for the supertime scale, 2.5 percent.*

(iv) *Promotions to the Selection Grade should, of course, be subject to the condition that the employee is found otherwise fit for the same.*

The above recommendations have been accepted by Government subject to the condition that the qualifying service for promotion to any Junior Selection Grade shall be five years unless different criteria are already in existence for any specific selection grade. The concerned Administrative Department will have to issue specific orders in consultation with the Department of Finance regarding the selection grade scales and percentages for each service/cadre. The Selection Grade posts will not be in addition to the existing sanctioned strength in the cadre but will be created by conversion of the existing sanctioned posts in the cadre. The number of Selection Grade

posts will be worked out on the basis of the number of posts sanctioned in the cadre as on 1st April, 1981, whether on permanent or on temporary basis. The Selection Grade posts to be sanctioned by conversion of the existing permanent/ temporary posts in the cadre will be either on permanent or on temporary basis according to as the posts in respect of which Selection Grade posts are provided are permanent or temporary. The actual number of Selection Grade posts available in a cadre will be revised annually on the basis of the sanctioned strength of the cadre as on 1st April every year, the first such review being due on 1st April 1982. Until such time the Administrative Departments are able to create different levels of Selection Grade posts in accordance with the above decision, Government have decided that the existing Selection Grade will continue. Where the revised scale for any existing Selection Grade has not been indicated in the Schedule II, the revised scale for that existing selection grade will be the revised scale next above the corresponding basic revised scale. Where, however, two selection grades exist at present, and the revised scales for the existing Junior Selection Grade/ Senior Selection Grades have not been indicated in Schedule II, the revised scale for the existing Junior Selection Grade will be the revised scale next above the corresponding basic revised scale while the revised scale for the existing Senior

Selection Grade will be the revised scale next above the revised scale for the Junior Selection Grade.”

10. Clause 10 (iii) of the above would show that Junior Selection Grade, Senior Selection Grade or Supertime scale is to be granted on the basis of the total cadre and not on the basis of total posts. The said Clause specifically provides that Junior Selection Grade shall consist at least 20% of total cadre and Senior Selection Grade 10% of total cadre. It further provides that actual number should be determined for a particular cadre taking into account the normal promotion prospects already existing for the cadre so that the first and second levels of promotion inclusive of the Selection Grade remains at least 20% and 10% respectively. It also provides that in case of State services, the percentage of Junior Selection Grade and Senior Selection Grade should be 20% and 12.5% respectively and for Supertime scale 2.5%.

11. I am of the considered view that in the light of acceptance of recommendation of Fourth Pay Revision Committee, Junior Selection Grade, Senior Selection Grade and Supertime scale is to be determined based on total cadre of a service. The number of posts of Junior Selection Grade, Senior Selection Grade or Supertime scale is to be determined taking into account normal promotion prospects already existing in the cadre.



12. Clause 10(i) of the above prescribes that Selection Grade should be provides “in all services, cadres and posts”. It means that there shall be provision for Selection Grade in all services, cadres and posts. It would certainly not mean that Selection Grade is to be provided on the basis of taking number of posts in a cadre of service as unit.

13. For example if there are 200 posts in a cadre having three promotional avenues above basic grade post, which are equivalent to Junior Selection Grade, Senior Selection Grade and Supertime scale and there are 40 persons working on the first promotional post, 25 persons on second promotional post and 5 on third promotional post or if more persons than the ratio are already working on promotional posts then, as indicated above, there would be no scope for grant of Selection Grade/Supertime scale in terms of the decision of the State Government as 25 percent, 12 ½ percent and 2 ½ percent of posts are already filled up in Selection grade/ Supertime scale by virtue of substantive promotion. There can be another situation when 30 persons are working on the first promotional post, 10 persons on the second promotional post and one person on the third promotional post. In such circumstance, 10 persons of the personnel in basic grade would be entitled for Junior Selection Grade, 15 persons working against first promotional post would be entitled for Senior Selection Grade if they are not granted

promotion on higher posts for the one reason or the other. Similarly, at least four persons would be required to be given Supertime scale who are on second promotional post, if they for some reason not able to get promotion to higher posts.

14. The recommendations of Fourth Pay Revision Committee ensures this much that in a cadre of State services, at least 20% should be give Junior Selection Grade, 12.5% Senior Selection Grade and 2.5% Supertime scale, if they fulfill other criteria like seniority and satisfactory service. It is not the case of the petitioner that the post which he was holding was a basic grade post which could be fulfilled by direct recruitment also. The petitioner having been already given higher scales in his cadre by substantive promotion cannot claim the benefits of Selection Grade as envisaged in the recommendation of Fourth Pay Revision Committee.

15. I find no merit in this writ application. This writ application is, accordingly, dismissed.

16. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

BKS/-

U			
---	--	--	--