

Party Name : UNION OF INDIA & ANR Vs IRLA 3363 SHEEL NIDHI JHA

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. Somik Deb, learned counsel appearing for the petitioner as well as Mr. B. Majumder, learned Central Government counsel appearing for the respondents. Mr. Somik Deb, learned counsel has referred in particular the paragraphs, as extracted, apprehending violation by the respondent.

"17. Further, it appears to this court that on taking the displeasure recorded by the Director General, CRPF into consideration, the DPC has flouted the instructions of the Govt. of India that the DGs displeasure recorded in the period of consideration of the CRs can only be considered by the DPC. Even it has been clearly laid down that when there is some technical violation of the rule, the DPC shall not exclude the concerned officers routinely from the penal if he is otherwise eligible for promotion. It has not been denied by the respondents that the petitioner was otherwise eligible for promotion to the rank of DIG, CRPF and, he occupied a higher seniority position in comparison to the private respondents. As this court has already quashed the DG's displeasure, this will have a definite impact on the decision of the DPC.

18. Having held so, the decision of the DPC of promoting the private respondents in exclusion of the petitioner even though he is senior in the Gradation List of the Commandants in the Force is, therefore, required to be interfered with and, accordingly, it is interfered with. The said decision is held unsustainable for exclusion of the petitioner. The respondents No.1 and 2 are directed to consider promotion of the petitioner to the rank of DIG from the date when the private respondents were promoted by the order/ communication dated 18.05.2013, Annexure-P/5 to the writ petition. If the respondents are not inclined to save the promotions of the private respondents from such date by taking measures as required, the said order/communication dated 18.5.2013, Annexure-P/5 to the writ petition so far the appointment of the private respondents in the rank of the DIGs are concerned, will be treated as quashed. In that event, the respondents No.1 and 2 are directed to re-convene the DPC for the vacancy year 2012-13 to consider the promotion of the petitioner and the private respondents to the rank of the DIGs, CRPF, within a period of 3(three) months from today. It is made clear that the petitioner will be entitled to get all financial and service benefits from the date of his promotion."

This Court in a contempt proceeding definitely shall not read into anybody's intention, but shall act only when the direction or the observation is violated.

Mr. Majumder, learned Central Government Counsel has categorically submitted that the DPC has been reconvened on 05.05.2015 for considering the case of the petitioner as well as of the private respondents in the writ petition for their promotion to the post of the DIGs, CRPF for the vacancy year 2013-14. He has further submitted that the respondent shall comply the judgment and order dated 24.09.2014 delivered in W.P.(C) No.87 of 2014 to its letter and spirit and the respondent does not have any intention to disobey or violate any part of the direction or observation of the said judgment.

Having regard to that statement and that the respondent has already reconvened the DPC on 05.05.2015, this Court may not take any serious view of the matter that the DPC has not been reconvened within the timeframe as given by this Court.

Having observed thus, this petition stands closed.

However, the petitioner if in the subsequent occasion finds that the judgment and order has not been observed with to its letter and spirit, he may approach this Court.