

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.375 OF 2012

Shri Ajai Pratap Singh,
Second in Command, IRLA No.19147918,
52nd battalion, Border Security Force,
P/O:- Ambassa, District:- Dhalai, Tripura

..... Petitioner

- Vs -

1. The Union of India,
Represented by its Secretary,
Ministry of Home Affairs, Govt. of India,
North Block, Central Secretariat,
New Delhi-110001.

2. The Director General,
Border Security Force, 10 CGO Complex,
Lodhi Road, New Delhi, 110003.

3. The Inspector General,
(Personnel) Personnel Directorate,
Border Security Force, 10 CGO Complex,
Lodhi Road, New Delhi-110003.

4. The Commandant,
(Personnel) Personnel Directorate,
Border Security Force Block No.10, 5th Floor,
CGO Complex, Lodhi Road, New Delhi, 110003.

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Respondents

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner	: Mr. A.C. Bhowmik, Sr. Advocate. Mr. A. Bhowmik, Mr. S. Chakraborty, Advocates.
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For the respondents	: Mr. A. Roy Barman, CGC.
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Date of hearing & delivery of Judgment & order W.P.(C) No. 375 of 2012	: 14.07.2015
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Whether Fit for Reporting :

Yes	No
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JUDGMENT & ORDER(ORAL)

Heard learned senior counsel, Mr. A.C. Bhowmik for the petitioner and learned CGC, Mr. A. Roy Barman for the respondents.

2. The simple case of the petitioner is that he joined the B.S.F in the post of Assistant Commandant on 09.12.1991. He was due to be promoted to the post of Deputy Commandant in the year 1998. DPC was held in the year 1998 but because of some uncommunicated adverse remarks he was not given promotion in 1998, rather his juniors, namely, Jaswinder Kumar Birdi and Hemant Kumar Jha were promoted to the post of Deputy Commandant. Subsequently, he was promoted to the post of Deputy Commandant on 24.05.2000. He made representation for his promotion giving retrospective effect but that was not entertained. Thereafter, he was promoted in the post of Second-in-Command on 01.07.2009. Now, he is due to be promoted to the post of commandant and he claims that he should be promoted taking into account his seniority position as was prevailing in the post of Assistant Commandant.

3. It is an admitted position that in the year 1998 the petitioner was not given promotion to the post of Deputy Commandant and his juniors were promoted superseding him. The

petitioner did not challenge that order of promotion and the promotion order sustains. Thereafter, again his juniors were promoted to the post of Second-in-Command and he was only promoted to the post of Second-in-Command on 01.07.2009 and at that point of time also he did not challenge the promotion order of his juniors. Now, when the promotional avenue to the post of Commandant is knocking the door, the petitioner has come with this writ petition seeking direction that he should be given promotion to the post of commandant taking into account his seniority from the date of promotion, which was due in the year 1998, in the post of Deputy Commandant.

4. The promotional orders of his juniors have not been challenged. Those juniors, who have been promoted superseding him, are also not made parties. Moreover, the claim of the petitioner regarding his deprivation from the year 1998 appears to be a stale claim since the petitioner did not challenge those deprivations in time when it was supposed to be challenged.

5. This court cannot direct the respondents to give promotion to the petitioner superseding his seniors in the service. The petitioner sought retrospective effect of his promotion which is not permissible. He has prayed for fixing his seniority notionally from the date his juniors were promoted, which cannot be ordered by this court since the promotional orders already passed and those promotional orders have not been put in challenge in this writ petition. Therefore, I find no merit in this writ petition and the

writ petition accordingly, stands dismissed. There shall be no order as to costs.

JUDGE

Sohanjit