

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 19693 of 2015 (J)

PETITIONER(S):

**SUDHINDRA KUMAR SINGH, AGED 51 YEARS,
COMMANDANT, HQ 148 BN BSF, BSF CAMPUS KAINOOR,
P.O. MULAYAM, THRISSUR, KERALA - 680 751.**

BY ADV. SRI.N.JAMES KOSHY

RESPONDENT(S):

**1.THE DIRECTOR GENERAL, BORDER SECURITY FORCE,
BSF HEAD QUARTERS, CGO COMPLEX, LODHI ROAD,
NEW DELHI - 110 003.**

**2.DEPUTY INSPECTOR GENERAL (PERS)
DIRECTORATE GENERAL BORDER SECURITY FORCE,
BLOCK NO.10, 5TH FLOOR, CGO COMPLEX, LODHI ROAD,
NEW DELHI - 110 003.**

**3.UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NORTH BLOCK,
NEW DELHI PIN - 110 003.**

**R1 -R 3 BY ADV. SMT.I SHEELA DEVI, CGC
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 11 MARCH 2003.

EXT.P2: COPY OF THE ORDER DATED 24.05.2004 ISSUED BY THE 2ND RESPONDENT.

EXT.P3: COPY OF THE ORDER DATED 9.10.2006.

EXT.P4: COPY OF OFFICE MEMORANDUM DATED 27.3.2015.

EXT.P5: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DTED 22.5.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.19693 OF 2015 (J)

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioner, who had joined the service of the Border Security Force in 1987, as Assistant Commandant, was subsequently promoted as Deputy Commandant during the year 2002. It would appear that disciplinary proceedings had been initiated against the petitioner while he was working as Deputy Commandant and the matter culminated with the issuance of an order that indicated "Displeasure of the Director General". The contention of the petitioner is that the said Displeasure of the Director General is not one of the enumerated penalties under the Central Civil Service (CCA) Rules, 1965, and hence the finding of displeasure of Director General could not have been a bar for considering the petitioner for further promotions within the Force. It is submitted that, in Ext.P4, the respondents admitted the aforesaid position and observed that the proceedings would not operate as an obstacle for future promotions of the petitioner. The stand of the petitioner, however, is that inasmuch as there was no penalty imposed on him, he should have been considered for promotion much earlier, and at any rate, he should now be entitled to retrospective promotion with effect from the date

on which his juniors were promoted. Highlighting his grievance, he has preferred Ext.P5 representation before the 1st respondent, and the limited prayer of the petitioner in the writ petition is for a direction to the 1st respondent to consider and pass orders on Ext.P5 representation, expeditiously, after hearing the petitioner.

2. I have heard the learned counsel for the petitioner as also the learned Assistant Solicitor General of India for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with a direction to the 1st respondent to consider and pass orders on Ext.P5 representation preferred by the petitioner within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner. The petitioner shall produce a copy of the writ petition along with a copy of this judgment before the 1st respondent, for further action.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp