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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on : 27.08.2015

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W.P.(C) 3775/2012

MAHANAND

..... Petitioner

Through: Mr O.P. Aggarwal, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mrs Abha Malhotra and Mr Gaurang Bindra, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. The petitioner's grievance is that by the impugned order of 13.06.2012, he was sought to be reverted from the post of Assistant Sub-Inspector (ASI) to Head Constable.

2. Admitted facts of the case are that the petitioner joined in the Central Industrial Security Force (CISF) under the Sports Quota on 11.01.1992. He was subsequently promoted as Head Constable in 03.01.2000 on out of turn basis in accordance with the CISF Rules & Regulations. He was subsequently promoted as ASI with effect from 21.06.2010. By the order dated 13.06.2012, the respondent CISF sought to revert him. The reversion order was premised on an error in the PSL number of the petitioner. Instead of his correct PSL No.22907A, the promotion was premised on PSL No.12907A. This is apparent from the following extract of the impugned reversion order:-

“2. AND WHEREAS The CISF HQRs NEW DELHI has intimated vide their letter No.E-31099/4/2012/Estt.I/586 dated 8.6.2012 that the seniority number in the rank of Head Constable in respect of No.922310018 HC/GD Mahanand (Now ASI/Exe) was erroneously allotted as 12907-A instead of 22907-A vide CISF FHQRs letter No.E-35017/01/2008/Estt.I/957 dated 30.12.2008. The same has now been rectified/amended as 22907-A. However, prior to amendment of his seniority he has been promoted to the rank of ASI/Exe based on his PSL No. 12907-A and he has assumed charge of the post of ASI/Exe on 22.06.2010 (FN) against the year 2010.

3. And WHEREAS as per amendment seniority list, the seniority number in the rank of HC/GD in respect of Mahanand does not come under the zone of consideration for promotion to the rank of ASI/Exe till date. In view of the above circumstances, promotion to the rank of ASI/Exe on the basis of PSL No.12907-A in respect of above individual is erroneous and the CISF HQRs New Delhi has directed to revert him from ASI/Exe to HC(GD) with immediate effect vide letter under reference.

4. NOW THEREFORE, the undersigned, in exercise of powers conferred upon him being the Appointing Authority, hereby reverts CISF No. 922310018 ASI/Ex Mahanand to the rank of HC(GD) in the Pay Band 5200-20200, Grade Pay 2400 with immediate effect. His pay in the rank of Head Constable may be fixed accordingly.”

3. When the petitioner approached this Court, an interim order was made on 10.07.2012, directing the respondents not to give effect to the reversion order.

4. The respondents have filed counter-affidavit and have further supplemented the same through an additional affidavit dated 02.03.2015. The said additional affidavit annexes a copy of the letter dated 19.04.2012 which clarifies their rationale for the impugned reversion order being that an amendment was made to the provisional seniority list on 19.04.2012 in the following terms:-

“Subject: Amendment in PSL number of HC/GD (SPORTS) reg.

Reference, APS Hqrs, Lr NC E 31014/60/APS/Estt/2011/355 Dated 16.02.2012.

The matter has been examined and the seniority of the following HC/GD Sports issued vide this branch Lr No.E-35017/01/2008/Estt.-I/957 dated 30.12.2008 has been amended as under:

Sr. No.	Force No.	Name	Date of Birth	Education Qualification	Date of Initial appointment	Category to which belong or is booked in the present rank	Date from which continuously working the present rank	PSL No	Year
1	2	3	4	5	6	8	9		12
FOR									
1	922310018	Mahanand	04.11.71	10 th	11.01.92	General	18.01.2000	12907-A	1999
2	962310175	Deepak Yadav	29.09.75	Secondary	16.11.96	General	24.01.2000	12907-B	1999
READ									
1	922010018	Mahanand	04.11.71	10 th	11.01.92	General	18.01.2000	22907-A	1999
2	962310175	Deepak Yadav	29.09.75	Secondary	16.11.96	General	24.01.2000	22907-B	1999

The individuals may be informed accordingly, and the same may also be enclosed on his service book for further reference.

*Neeta Singh
Assistant Commandant
CISF Unit IGI Airport*

5. Ms Abha Malhotra, learned counsel for the respondent-CISF submits that in view of the interim orders of this Court, the petitioner’s promotion as Assistant Sub-Inspector at the appropriate date could not be given effect to. It was argued that in case the petitioner is agreeable, the interim order may be vacated and he can be treated as an ASI at least from the date of the finalization of the panel dated 17.11.2014.

6. Learned counsel for the petitioner submitted that the panel list—a copy of which has been produced before the Court—also reflects the name of one Shri Deepak Yadav at serial No.172. The said Deepak Yadav, even according to the respondents was, junior to the petitioner in terms of the 19.04.2012 amendment to the seniority list. It is submitted that both counter-affidavit and additional affidavit are silent as to how Deepak Yadav was treated vis-a-vis the reversion. It is submitted that if Deepak Yadav is indeed correctly shown as per his seniority, i.e., below the petitioner in the list, there cannot be any problem; however, if his promotion has not been disturbed with effect from 2010, the petitioner’s claim too would have to be considered. It was submitted that in any case the petitioner’s entitlement to the higher grade in terms of the MACP Scheme of 2009 has to be duly released, i.e., after completion of 20 years of service, i.e., which in his case is 10.01.2012.

7. The promotion list dated 17.11.2014 is hereby taken on record. The letter dated 19.04.2012, in the opinion of the Court, is a complete answer to the petitioner’s grievance that he was wrongly reverted. The petitioner does not deny that his PSL number was not 12907A. His PSL number was, in

fact, 22907A. This was apparently found out by the CISF because of some other representation. It is not as if CISF deliberately reverted the petitioner without any cause. Having said that, at the same time the Court recognizes that the petitioner's entitlement to be considered for the MACP benefit did arise in terms of the 2009 Scheme in the interregnum after his completing 20 years as on 10.01.2012.

8. Under these circumstances, the CISF should examine and consider the appropriate course to be adopted in the case of those who completed 20 years of service in the post in terms of the MACP Scheme and grant it suitably. This direction shall operate and CISF shall undertake a review in this regard within four weeks from today and pass suitable orders in this regard. So far as the petitioner is concerned, the respondent CISF is directed to ensure that appropriate amendment is carried out to the panel list of ASIs of 17.11.2014 and ensure that his name is included above that of Deepak Yadav (PSL No. 22907B) given that petitioner's number is 22907A. This exercise shall be carried out and consequential orders be made within six weeks from today.

9. The writ petition is allowed in above terms.

Dasti.

**S. RAVINDRA BHAT
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

AUGUST 27, 2015

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