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CWP-842-2016

NIROTAM PARSHAD V/S STATE OF HARYANA & ORS

Present: Mr. P.L. Verma, Advocate
for the petitioner.

Mr. R.K.Doon, AAG, Haryana.

The petitioner in this case seeks promotion to the post of an Inspector w.e.f. 31.01.2014, i.e. the date from which his junior is stated to have been promoted.

Learned counsel submits that the petitioner has been denied such promotion, from the rank of Sub- Inspector, on the ground that in his Annual Confidential Report (ACR) for the period 01.04.2013 to 31.12.2013, the following remarks have been entered:-

1. *Preventive and Detective ability* ;No interest
2. ***Reliability*** ;Average
3. *Defect, if any and whether the same have been brought to the notice of the concerned officer through any communication* ;less interested
4. *General remarks* ;The official not taking interest in solving in offence.

2 *SI Nirotam Parshad No. 480/G may be advised/warned to remove the above mentioned defects. His acknowledgement in token of having received this communication may please be obtained on the enclosed spare copy and sent to this office for record."*

Learned counsel for the petitioner submits that the petitioner having only been described to be average as regards his reliability, simply on that ground he cannot be refused promotion; in support of which contention he has referred to the instructions issued by the Financial

Commissioner and Secretary to Government of Haryana, Department of

Home, dated 01.07.1999 (a copy of which is annexed as Annexure P-7), in which it has been stated as follows:-

“ A case of a Police Inspector regarding his promotion is referred to Chief Secretary, Haryana (in General Admn. Deptt.) for the advice as to whether the entry “Entry not being reliable” is to be counted as integrity doubtful or not. The Chief Secretary, Haryana has tendered the following advice:-

“It is observed that although existing instructions do not bar a case like this for promotion, yet an entry of “Not being reliable” is quite serious and would lose all force, if it is entirely disregarded. If such an entry is substantiated by some concrete examples by the reporting officer, it would be appropriate not to allow such officer any promotion for atleast two years.”

In view of the above advice of the Chief Secretary, Haryana it has been decided that entry “Not being reliable” in the ACR of the Police Officers, official of the Police Department, Home Guards & Civil Defence Department and of I.G. Prison, Haryana, is substantiated by some concrete example than such officer may not be allowed any promotion for atleast two years.”

He further relies upon a judgment of a Coordinate Bench in Rambir Singh Vs. State of Haryana and others (CWP 717 of 2011) decided on 19.07.2012, a copy of which has been annexed as Annexure P-6 with the present petition.

In the reply filed by the respondent-State, it has been stated that in the ACR for the period 28.05.1993 to 31.03.1994, the petitioner is shown to have had poor discipline and in the general remarks it is recorded that he is an average policeman.

In the ACR for the period 01.04.2008 to 31.03.2009 his

working and detection ability has been described to be “not so good”.

In his ACR for the period 01.08.2009 to 31.03.2010, it has been recorded as follows:-

<i>“ Moral Courage</i>	<i>Less</i>
<i>Reputation for dealing with public</i>	<i>Less</i>
<i>General power of control</i>	<i>Less</i>
<i>Power of command</i>	<i>Less</i>
<i>Preventive and detective ability</i>	<i>Needs improvement</i>
<i>Working and detective ability</i>	<i>Need improvement</i>
<i>General remarks</i>	<i>Needs improvement in investigation of cases.”</i>

Similar are the remarks recorded in the ACRs for the periods 01.04.2010 to 23.08.2010 and 01.04.2013 to 31.12.2013.

Hence, it is contended that with the aforesaid record, the petitioner cannot be promoted to the post of an Inspector.

Having considered the aforesaid contentions on both sides, it is first to be noticed that the petitioner is stated to have been promoted as a Sub Inspector from the rank of ASI on 01.01.2008 and therefore the remarks for the period 28.05.1993 to 31.03.1994 cannot be taken into consideration, as has been contended by the respondents.

However, all the subsequent remarks, from the period 01.04.2008 onwards, obviously can be and would be taken into consideration for promoting him to the next rank.

As regards the petitioners contention that simply on the basis of his reliability being recorded as average for the period 01.04.2013 to 31.12.2013 he cannot be denied promotion, though in the opinion of this court even that remark alone, read with the general remarks for that period,

to the effect that he did not take interest in solving offences, would be enough to at least defer his promotion, however, seeing his recorded ACRs from 01.04.2008 onwards, I see absolutely no error in the decision of the respondents to not promote the petitioner, especially seen with the instructions issued by the Chief Secretary to the Government of Haryana on 09.05.1985, as have been annexed as Annexure R-1 with the reply, pointed out by learned state counsel.

The aforesaid instructions are to the effect that the case for promotion would be based upon at least 70 per cent good reports during the last 10 years. As such, the petitioner would obviously not meet with that criteria.

Learned counsel for the petitioners' contention to the effect that the petitioners' record is more than 70 per cent good in the past 10 years is obviously not borne out from what is contained in paragraph 3 of the written statement, to which there is no replication filed.

As regards the judgment of the coordinate Bench relied upon by learned counsel for the petitioner, in Rambir Singh's case (supra), that was a case pertaining to premature retirement at the age of 55 years, for which the parameters for retention in service would be wholly different to parameters for promotion.

Consequently finding no merit in this petition, it is dismissed.

(AMOL RATTAN SINGH)
JUDGE

August 02, 2017
Sunil Devi

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No