

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1892 of 1999

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Janki Prasad Gupta, son of Late Gaya Sah, resident of Mohalla- Chouhatta,
Opposite Khuda Bux Ka Library, Ashok Raj Path, Patna-4.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna-1.
3. The Director General of Police, Government of Bihar, Old Secretariat, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.

For the Respondent/s : Ms. Shyama Sinha, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-06-2018

Heard Mr. Mrigank Mauli, learned counsel appearing for
the petitioner and Ms. Shyama Sinha, learned Assisting Counsel to
Additional Advocate General No.9 for the State.

The petitioner prays for issuance of a writ in the nature of
mandamus commanding the authorities of the State Government in
its Home (Police) Department to give promotion to the petitioner in
the rank of Deputy Superintendent of Police (hereinafter referred to
as 'the Dy. S.P.' for the sake of brevity) with effect from
31.12.1981 reckoning his seniority on the basis of date of
confirmation on the post of Sergeant Major with effect from
18.2.1981 as well as to provide him the promotional benefits of
Junior Selection Grade on account of gallantry received by the



petitioner.

While being fair on the limitations to the relief prayed by the petitioner, Mr. Mauli, learned counsel appearing for the petitioner accepts that in so far as the prayer for promotion on account of gallantry award is concerned, the legal position is settled under a judgment of this Court which does not entitle an officer in the rank of 'Dy.S.P.' to such benefit even if, juniors to him in rank have been held entitled for the same.

That brings this Court to the issue of advancing the date of promotion to the post of 'Dy.S.P.'. It is noted that the petitioner was appointed as a Sergeant Major on 19.6.1974, given selection grade on 5.10.1978 and was confirmed on the post with effect from 18.2.1981 vide letter bearing Memo No.393 dated 12.1.1985 at Annexure 3. The petitioner was promoted in the rank of 'Dy. S.P.' on 4.2.1987 as per the statement made in paragraph 9 of the writ petition. Much prior thereto a gradation list of 'Dy. S.P.' was prepared and circulated vide Annexure 4 which is dated 31.12.1981 and though carries the name of some of the officers with whom the petitioner seeks to draw parity for the claim but does not contain the name of the petitioner and the reason is because, he was given promotion only in 1987 and the gradation list is dated 31.12.1981. The gradation list was challenged in CWJC No.3130 of 1981 and a



coordinate Bench of this Court vide judgment and order passed on 17.1.1986 quashed the gradation list, inter alia, with direction to prepare it afresh on the basis of date of confirmation. It is following the order of this Court that a fresh gradation list of Inspector/Sergeant Major/Inspector (Armory)/Subedar was prepared, a copy of which is at Annexure 6 and contains the name of the petitioner at serial no.270.

It is because vide notification bearing Memo No.7790 dated 22.9.1987 at Annexure 7 that 11 Inspector (Armory) were promoted to the rank of 'Dy. S.P.' with effect from 31.12.1981 that the petitioner also seeks to advance his date of such promotion.

Surprisingly the grievance so raised lacks foundation inasmuch as neither the advancement is being sought on grounds that the petitioner was entitled to hold the post with effect from 31.12.1981, in which case, considering that the promotional order was passed as back as in 1987, this writ petition would be held grossly belated having been filed after lapse of 13 years. The other grounds on which such relief can be claimed is, in case any junior to the petitioner in the gradation list would have been given this benefit but then there is no such pleading on the record of the proceedings.

As I have observed above, the relief prayed lacks



foundation and even if an exhaustive representation is on record of the case but in absence of foundational facts supporting the relief claimed, I am not persuaded to grant indulgence at such belated stage to remit the matter to the authorities for examining the same after a delay of 13 years. It is about time to give a quietus to the matter.

The writ petition is disposed of.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16-07-2018
Transmission Date	NA

