

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15141 of 2005

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VIJAY BIHARI SHARAN, SON OF LATE RAJESHWARI SHARAN, RESIDENT OF C/O PUNAM SHARAN, AASHIRVAD, OPP NEW FRIEND'S COLONY, ASHIANA NAGAR ROAD, PATNA 800 025., PRESENTLY POSTED AS COMMANDANT STAFF, OFFICE OF DIGP CRPF LS COLLEGE CAMPUS, POLICE STATION KAZI MOHAMMADPUR TOWN AND DISTRICT MUZAFFARPUR

.... Petitioner

Versus

1. THE UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI
2. THE DIRECTOR GENERAL, CENTRAL RESERVE POLICE FORCE, CGO COMPLEX NO.1, KK PARISHAR, LODHI ROAD, NEW DELHI 110 003
3. THE ADDITIONAL DEPUTY INSPECTOR GENERAL OF POLICE (PERSONNEL-I), OFFICE OF THE DIRECTOR GENERAL, CENTRAL RESERVE POLICE FORCE, BLOCK NO. 1, K.K. PARISHAR, LODHI ROAD, NEW DELHI 110 003
4. SHRI V.B.SINGH, IPS, THE INSPECTOR GENERAL OF POLICE, NORTHERN CENTRE, CRPF, WEST BLOCK NO. 8 R.K.PURAM, NEW DELHI 110 066
5. THE DIG PETITIONER, CRPF, GURGAON, HARYANA
6. SRI VIKRAM SRIVASTAVA IPS, INSPECTOR GENERAL OF POLICE (PERSONNEL), DIRECTORATE GENERAL, CRPF, NEW DELHI 110 003
7. THE DIGP (PERSONNEL) DIRECTORATE GENERAL, CRPF NEW DELHI 110 003
8. SHRI GURCHARAN SINGH, IGP CRPF TRIPURA FORMERLY DIGP, CRPF, GURGAON

.... Respondents

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Appearance :

For the Petitioner : Mr. Pushkar Narain Shahi, Sr. Advocate
Mr. Ritesh Kumar I, Advocate

For the Union of India : Mr. Anjani Kr. Sharan, Asstt Solicitor General

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 13-03-2018

Heard Mr. Pushkar Narain Shahi, learned senior counsel
for the petitioner and Mr. Anjani Kumar Sharan, learned counsel
for the Union of India.

2. The writ petition has originally been filed for quashing
adverse remarks made in the petitioner's Annual Confidential
Remarks (ACR) for the period of 2003-04, communicated to him
vide Letter No. G II-1/2004/CR Cell dated 18.8.2004, issued under
the signature of the Additional Deputy Inspector General of Police



(Personnel-I), Office of the Director General, Central Reserve Police Force (herein after referred to as 'the CRPF') (respondent no.3), contained in Annexure 3, during which period petitioner was posted as Commandant in the respondent-Force. Petitioner has also made an alternative prayer for protection against the said adverse entry. Consequential relief, prayed for by him, is that his case for promotion to the next higher post of Additional Deputy Inspector General of Police, C.R.P.F. with due seniority be considered.

3. It is pointed out by the learned senior counsel for the petitioner that the subsequent development made after filing of the writ petition has narrowed down the scope of the instant proceeding. It is submitted by learned senior counsel for the petitioner that the adverse entry made in the ACR of the petitioner was in relation to some irregularities committed by him in sale and purchase of liquor. The petitioner, on the basis of the said allegations, had already been proceeded against departmentally and in the proceedings arising thereof the charges levelled against him have been dropped and he has been exonerated of the charges in relation to which the adverse entry has been made in his ACR for the period 2003-04, vide order contained in Letter no. D IX-23/2004-CRC dated 26.9.2008, issued under the signature of the Additional DIG (Pers-1), Directorate General, CRPF, Block No.1, CGO Complex, Lodhi Road, New Delhi. Pursuant thereto, the



petitioner submitted his representation dated 14.10.2008 (Annexure 23) for expunging the adverse remarks reflected in his ACR for the period from 1.4.2003 to 31.3.2004 and to certify his integrity as on 31.3.2004 2003-04 which was considered by the respondent authorities vide order contained in Letter No. R.XIII-15/2004-CRC dated 22.1.2009 (Annexure 24).

4. From perusal of the said order, it appears that in consideration of petitioner's exoneration of the charges levelled against him, respondent authorities modified the adverse entry and also certified his integrity in the ACR for the year 2003-04 in respect of which the adverse entries had been made against the petitioner which is the subject matter of the instant writ petition.

5. Thus, during pendency of the writ petition, respondent authorities have conclusively exonerated the petitioner in respect of charges and the adverse entries for the period 2003-04 has been expunged from the petitioner's ACR. In view of the said development, the learned senior counsel for the petitioner submits that though the petitioner was made to retire as Commandant on 30.9.2006 on attaining age of 57 years, he is now entitled to be considered for promotion to the post of Additional Deputy Inspector General of Police (ADIGP), CRPF at least from the date his juniors were promoted as ADIGP on the basis of his position in the gradation list of commandants dated 1.1.2005 (Annexure 11).



6. Such submission has been made relying upon Annexure 12 to contend that juniors to the petitioner in the said gradation list dated 1.1.2005 were granted promotion to the post of ADIGP in the CRPF ignoring his case. It is submitted that since the petitioner had been found unfit during the said period by the Departmental Promotion Committee, his consideration for promotion to the rank of ADIGP was denied to him. The same is also evident from the stand of the respondents, reflected in paragraph 33 of the counter affidavit.

7. It is submitted on behalf of the respondents that other than the adverse entry in the ACR, the petitioner has also suffered other adverse entry in the period 2000-01. Learned senior counsel for the petitioner, while referring to the rejoinder to the supplementary counter affidavit cum reply to the counter affidavit, submits that in relation to the said adverse entry, one writ petition filed by the petitioner is pending consideration before the Jharkhand High Court. Learned senior counsel thereafter points out that the said adverse entry for the 2000-01 has outlived its validity much prior to January, 2005, the date from which his juniors have been promoted to the post of Additional Deputy Inspector General of Police.

8. Since, the entries made in the year 2000-01 and its effect thereafter are not the subject matter of the writ petition, this



Court leaves it to the consideration of the respondent authorities as to whether on the charges entered in the ACR of the petitioner for the year 2000-01, he can still be denied promotion with effect from 2005 when other juniors are said to have been granted promotion.

9. In view of the aforesaid consideration, the petitioner may represent his claim for promotion to the post of Additional Deputy Inspector General of Police, CRPF with effect from January, 2005. Such representation, if filed within a period of six weeks from today, shall be considered by the respondent authorities and disposed of by a reasoned and speaking order in accordance with law within a period of eight weeks thereafter.

10. Needless to say that if the petitioner is found eligible then he would be entitled to all consequential benefits arising out of the said decision.

11. The writ petition is disposed of.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CA V DATE	NA
Uploading Date	26.3.2018
Transmission Date	NA

