

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3731 of 2018

Dr. Sunil Kumar Tyagi S/o Shiv Raj Tyagi Aged About 57 Years Posted As Deputy Inspector General Posted At Border Security Force, THQ, Spl. Ops. BSF, Chhattisgarh Risali Sector, Bhilai District Durg Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Through The Home Secretary, Ministry Home Affairs, North Block New Delhi.
2. The Director General Border Security Force , Pers. Dte. FHQ, BSF, 10, CGO Complex New Delhi.
3. The Inspector General, Border Security Force, Pers. Dte. FHQ, BSF, 10, CGO Complex New Delhi.
4. Shri Harminder Pal, Deputy Inspector General, Posted At FTR, HQ BSF, Palora Camp. Jammu.

---Respondents

For Petitioner	:	Ms. Fouzia Mirza, Advocate
For Respondent/Union of India :		Mr. B. Gopa Kumar, Advocate along with Mr. Bhupendra Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03/12/2018

1. The relief sought for by the petitioner in the present writ petition is for a direction to the respondents to conduct a review D.P.C. after grant of proper seniority in accordance with the decision, which the respondents have taken so far as the seniority of the petitioner is concerned.
2. The brief facts of the case is that the petitioner was initially appointed as an Assistant Commander with the Border Security Force on 19.09.1984. The order of seniority initially published shows that the total marks, which the petitioner had scored vide Annexure P/2 as 2468. Subsequently, the said marks were rectified vide Annexure P/3 dated 13.04.2016, where the actual marks scored by the petitioner was reflected as 2648 instead of 2468.

3. Later on, the matter of the petitioner was sent to the Ministry of Home Affairs, Government of India, where the Ministry of Home Affairs had sent the matter back to the Border Security Force department to take a decision in accordance with the rules and regulations and also instructed the Border Security Force Authority for proper rectification, in case if the error is found to be genuine.
4. Based on the said observations by the Ministry of Home Affairs, the respondents have rectified the seniority, which was to be granted to the petitioner and have vide their order dated 09.05.2018 accepted the mistake that has crept on their part and have ordered for the revision of the seniority. As a consequence, it has been ordered that the seniority of the petitioner should be placed beneath Mr. Sanjeev Bhanot, who is placed at serial No. 1152 and above Mr. Harminder Pal, who is placed at serial No. 1153.
5. Learned Assistant Solicitor General appearing on behalf of the respondents, fairly submits that he has instructions to state that the rectification part, which has to be done as a consequence to the order dated 09.05.2018 is already in the process and in all likelihood an early order would be passed rectifying the error crept and the petitioner's position would be restored and would be placed over and above his immediate junior i.e. Harminder Pal (respondent No.4). He submits that the department is already in the process of conducting review D.P.C. also in this regard.
6. Given the said facts, that the respondents have already admitted the erroneous seniority, which the petitioner was granted and have also granted an order of rectification of the same.

7. Let the consequential compliance of the order dated 09.05.2018 and the consequential promotion, if the petitioner would be entitled for placing him over and above his immediate junior Harminder Pal, be done in accordance with the Rules, at the earliest preferably within a period of 4 months from the date of receipt of the copy of this order
8. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved