

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13432-1998 (O&M)

Date of Decision:-01.02.2018.

Hari Chand, Sub Inspector, Indo-Tibetan Border Police

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioner.

Mr. H.S. Baidwan, Advocate for the respondents-UOI.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner's grievance is that he is entitled to promotion to the post of Inspector (AT) in the pay scale of ₹ 1640-2900.

(2.) Respondents have not given effect to the proposed order of promotion dated 24.12.1996 (Annexure P-1) on the score that there was a proposal to hold disciplinary proceedings against the petitioner on 8.6.1996, whereas, charge-sheet was issued on 3.11.1998. With reference to these factual aspects, question for consideration is whether as on the date of promotion, charge-sheet was filed or existing or not. Undisputedly, charge-sheet was filed on 3.11.1998 i.e. much after proposal for promotion dated 24.12.1996 (Annexure P-1). For the purpose of promotion, concerned

“*AYE and no departmental/vigilance action is pending or proposed to be taken against him.*” Supreme Court in the case of **Union of India and others Vs. K.V. Jankiraman and others 1991 SCC (4) 109** held that application of proceedings of sealed cover or overlooking claim of employee's promotion would be available only as and when charge-sheet is filed. Charge-memo in the disciplinary proceedings and charge sheet in the criminal proceedings. Undisputedly, in the present petition, charge-sheet was issued only on 3.1.1998, whereas the proposed promotion is dated 24.12.1996. Therefore, the respondents' contention that there was a proposal to hold departmental inquiry cannot be taken into consideration in view of the law laid down in the supra case. Therefore, present CWP stands allowed. Respondents are hereby directed to consider petitioner's name to the post of Inspector (AT) in the pay scale of ₹ 1640-2950 from the date junior was promoted pursuant to the proposed promotion dated 24.12.1996 and extend all consequential benefits including monetary benefits. The above exercise shall be completed within a period of 4 months from today. At this stage, learned counsel for the petitioner submitted that petitioner has attained the age of superannuation and retired from service on 31.07.2002. Since petitioner has retired, respondents are directed to re-fix petitioner's pay and pension in the promotional post and calculate arrears of pay and pension and disburse the same to the petitioner within the aforesaid stipulated period.

(P.B. BAJANTHRI)
JUDGE

February 01, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.