

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.199 of 2018
In
Civil Writ Jurisdiction Case No.5971 of 2015

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Uday Kumar Singh son of late Satya Narayan Singh, resident of Mohalla-
Barai, P.S.- Ahiyapur, District- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna
4. The Additional Director General of Police, Crime Investigation Department,
Old Secretariat, Bihar, Patna
5. The Additional Director General of Police, Headquarter, Old Secretariat,
Bihar, Patna.
6. The Inspector General of Police, Crime Investigation Department, Old
Secretariat, Bihar, Patna.
7. The Deputy Inspector General of Police, Crime Investigation Department,
Old Secretariat, Bihar, Patna
8. The Director, Photo Bureau, Near Lalit Bhawan, Patna.
9. The Superintendent of Police, Crime Investigation Department, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogendra Kumar Singh
For the State : Mr. P.K. Verma- A.A.G.-3

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-04-2019

Heard learned counsel for the appellant.

2. This is a matter pertaining to the claim of the
appellant for being promoted from the post of Assistant Sub-



Inspector of Police to the post of Sub-Inspector of Police in the Photo Unit of the Bihar Police which appears to be a posting under the notification of the Government of Bihar dated 7th January, 1975, a copy whereof has been filed as Annexure-2 to the writ petition. The said notification recites that in seven districts of the then unbifurcated State of Bihar, namely, Patna, Arrah, Muzaffarpur, Bhagalpur, Ranchi, Dhanbad and Jamshedpur there would Photo Units for which seven posts of Sub-Inspectors, seven posts of Assistant Sub-Inspectors and seven posts of Constables shall be permanently retained with effect from 1st of March, 1975. The Government order has been issued under the order of His Excellency, the then Governor of Bihar. A copy of the said notification was also sent to the Criminal Investigation Department for information.

3. We may now revert to the Bihar Police Manual that has been revised and promulgated with effect from 1978. We are mentioning this fact inasmuch as the notification is of the year 1975 whereas the Police Manual came to be revised in the year 1978. Rule-422 of Volume 1 begins with the heading Photographic Bureau. Rule 422 is extracted hereinunder:-

“422. *Photographic Bureau.*—(a) A Photographic Bureau is maintained in the department, the main functions of which are-
(1) the photographing of criminals for the



purpose of aiding identification;

(2) the photographing and enlargement of finger prints and handwriting for purpose of comparison.

(b) The staff of trained police photographers is available in districts also.

(c) The rules for the photographing of criminals for record and the organization of the bureau and the list of classes of criminals whose photographs are kept on record are detailed in Appendix 22. All officers should carefully study the Appendix, especially the portions dealing with finger prints.

(d) Superintendents shall arrange that all police-stations are kept supplied with camel hair brush, magnifying glasses, gray powder and graphites for the purpose of intensifying or bringing to light finger prints and other marks left by criminals, as detailed in clause 14 of Appendix 22.”

4. For the purpose of explaining the duties and functions of the Photographic Bureau, Appendix-22 contained in Volume 3 of the Bihar Police Manual provides in detail the entire set up of the Photographic Bureau and Clause-2 of Appendix-22 prescribes the appointment of the technical staff therein, but in Clause (c), the ministerial and other subordinate employees in the Bureau as sanctioned would be drawn from the General Police strength of the C.I.D. Clause-1 and Clause-2 of the Appendix-22 read with Clause-5 is extracted hereunder:-

“1. The Photographic Bureau manned by trained Photo experts with branches in each District Headquarters. It would be attached to the Criminal Investigation Department but its services would be available to the Intelligence Department as well.

Functions:- The functions of the Bureau are to –



- (a) prepare and keep negatives of persons regarding whom record is kept in Criminal Intelligence Bureau;
- (b) enlarge and photograph marks at scene of crime by 'Photomicrography' or 'Photomacrography';
- (c) use cinematography for picking up rioters, following criminals in hit and run cases and making moving pictures for identification of personal traits like 'gait' and 'stoop' etc.;
- (d) prepare photographs of unidentified corpses, and their blocks by halftone process, etc. for publication in the *Criminal Intelligence Gazette*;
- (e) photograph and enlarge finger prints, foot prints, documents, etc. (both disputed and specimens) for purposes of comparison by varied sources of illumination;
- (f) manage and supervise the field photo units and to see that proper guidance and photo materials are regularly given for their smooth working;
- (g) do research in the field of photography and to give aids in scientific investigation and to hold training courses for existing and new incumbents in the Bureau and allied offices;
- (h) train police officers in photography work.

2. *Recruitment of staff.*--(a) Junior Experts will be appointed direct by a selection committee consisting of Deputy Inspector-General and Superintendent, C.I.D. and Director of Photo Bureau. They will be issued with appointment certificate by the Deputy Inspector-General. The recruitment of senior expert will be effected by promotion from the rank of junior experts according to seniority through a departmental selection committee consisting of Deputy Inspector-General and Superintendent, C.I.D. and Director, Photo Bureau. The ration between Junior and Senior Experts will be 2:1.

(b) The minimum educational qualification for recruitment to the cadre of Junior Experts should be Intermediate or its equivalent with a practical experience of five years in the field of photography. Suitable young officers up to the rank of Sub-Inspector may be allowed to apply for the posts of Junior Experts as and when vacancy occurs and they should be given due consideration.

(c) The ministerial and other subordinate employees in the Bureau as sanctioned would be drawn from the



General Police strength of the C.I.D.

(d) The post of Director shall be filled by promotion from the serving personnel on the basis of seniority and service records. The selection will be made by the Inspector-General's Board on the basis of nominations made by Deputy Inspector-General, C.I.D. Since this will be a gazetted post, the recommendation of the Inspector-General's Board will have to be sent to Government for orders.

5. *Staff*.--(a) Each district unit will have at least two experts. Each unit should be equipped with a close up camera for portraiture and also an enlarger and ancillary equipments.

(b) The leave and training reserve for the photo units will be provided in each rank, the leave reserve being attached to units concerned and the training reserve being kept at Photo Bureau Headquarters.

(c) The officers attached to the Photo Units will work in plain cloth. They may be issued Identity Cards (appendix 27) if necessary. Where they have to carry cameras for long distance, a vehicle should be provided.”

5. A perusal of the aforesaid provisions would indicate that this was a separate unit of Photographic Bureau which does not refer to the Government order dated 7th January, 1975, but sub-clause (c) of Clause 2 does indicate that staff shall consist of ministerial and other subordinate employees.

6. We further find that Appendix-41 contains the list of authorities who can make appointments and grant promotions to different rank to the Police Department. This is in conformity with the Rule 668 of the Manual. The Technical Cadre is defined in Part II as indicated therein which is extracted hereinafter:-

“II. TECHNICAL CADRE



12.	Director, Deputy director, Assistant Director of Forensic Laboratory	2 years	Government	
13.	Technical Experts (Senior) F.P.B., Questioned denouements and Photo Bureau, etc.	2 years	No direct appointment	Inspector- General
14.	Technical Experts (Junior) F.P.B., Questioned documents Photo Bureau and Statistical Assistant	Ditto	Deputy Inspector-General,	Criminal Investigation, Department"

7. These posts at serial No. 12, 13 and 14 to Appendix-41 indicate that technical experts comprise of junior and senior experts in the Photo Bureau.

8. The case of the appellant is that he was not appointed as a technical expert which appointment has to be made in the junior scale by the Commission and in the senior scale by the promotion.

9. So far as the appellant is concerned, he was posted in the Criminal Investigation Department and the said Department has posted the officials as per the Government Order dated 7th January, 1975. The appellant, therefore, was initially appointed as a Constable and then promoted as an Assistant Sub-Inspector of Police. He is now claiming promotion as a Sub-Inspector of Police in the Photo Unit itself.

10. It is in this background that the Superintendent of Police in respect of the claim of the appellant requested the Police



Headquarters to clarify the correct status of the applicability of the rules and gave an opinion that since there is no separate cadre provided for in order to consider the promotion claim of the appellant separately, the applicant's claim for promotion in the Photo Unit is not acceptable. However, while doing so, the Superintendent of Police has used the phrase 'Photo Bureau' and not 'Photo Unit'. The Police Headquarters has clarified that since there is no such separate cadre nor any rule in this respect, therefore, the appellant is to be treated in the General cadre and his consideration of promotion shall be made as per the rules applicable to the general cadre subject to his fulfilling the eligibility conditions as well as other terms and conditions relating thereto.

11. The said letters dated 10.12.2013 and 21.10.2014 have been filed along with the writ petition and it is on these grounds that the relief prayed for in the writ petition was requested for. The appellant retired and superannuated on 30th September, 2014 without getting the benefit of such promotion.

12. The writ petition has been dismissed by the learned Single Judge who has recorded that since there is no separate cadre for the Photo Bureau and since the minimum qualification prescribed for the staff of the Photo Bureau is not possessed by the appellant, therefore, he is not entitled for any



such benefit. Paragraph-4 of the impugned judgment is extracted hereinunder:-

“4. The said decision is based on the fact that there is no separate cadre for the Photo Bureau which has ever been created and secondly that the petitioner, who is relying on Appendix 22 of the Bihar Police Manual was never appointed as a junior expert directly as is contemplated under the said appendix. Even the minimum qualifications which are prescribed therein being Intermediate or its equivalent with practical experience of five years in the field of Photography, are lacking in respect of the petitioner.”

13. What we find is that the learned Single Judge does not appear to have been apprised of the status of the technical cadre of the Photo Bureau which is an altogether separate system provided for in terms of Rule 422 read with the appendices 22 and 41 as referred to hereinabove. The appellant is not claiming any promotion in the technical cadre of the Photo Bureau. To the contrary, his claim is to the post of Sub-Inspector of Police in the Photo Units, the post whereof came to be permanently retained under the Government order dated 7th of January, 1975.

14. Learned counsel for the State Shri P.K. Verma, Additional Advocate General contends that the appellant forms part of the general cadre and as and when his turn arrives by virtue of his seniority and eligibility for promotion as a Sub-Inspector, he



can be considered, but there cannot be a separate consideration for the appellant in the Photo Unit itself.

15. Having considered the submissions raised, the fact remains that the Criminal Investigation Department is a separate department of the Bihar Police and within the said department, the Photo Bureau is a defined cadre with technical experts as per Appendix 41. The appellant is not part of that technical cadre. He has been appointed and is continuing in the Photo Unit which appears to be on the strength of the government order dated 7th January, 1975. We do not find any consideration of the aforesaid continuance of the Photo Unit in the districts referred to in the said Government Order either by the Superintendent of Police while seeking clarification from the Headquarters in his letter dated 10.12.2013 nor do we find its mention even in the directions issued by the Police Headquarters vide letter dated 21st October, 2014. There is a total absence of consideration of the said Government order and its impact coupled with the claim of the appellant for being promoted as a Sub-Inspector of Police keeping in view his seniority and eligibility. The learned Single Judge has also not taken notice of the aforesaid fact and, therefore, we are of the opinion that neither the impugned judgment nor the inaction on the part of the respondents can have our approval.



16. Accordingly, the impugned judgment dated 10th of January, 2018 is set aside and the appeal is allowed with a direction to the respondent No. 5, that the Police Headquarters will clarify this aspect of the matter as well, as observed hereinabove, keeping in view the claim of the appellant as also the Rules that would be applicable for the consideration of the promotion of the applicant. Specific directions shall be issued in this regard to the respondent Deputy Inspector General of Police of the department concerned who shall then act accordingly and pass appropriate orders with regard to the claim of the appellant. The Police Headquarters shall issue necessary instructions within six weeks of the date of presentation of the certified copy of this order before the said authority and the concerned Deputy Inspector General of Police shall proceed to pass appropriate orders within four weeks thereafter.

17. It goes without saying that in the event any orders have been passed in this regard in the past pertaining to the individual claim of the appellant, the same shall be duly informed to him in accordance with law.

18. The decision shall be taken expeditiously keeping in view the fact that the appellant has already superannuated and in the event it is found that the appellant is entitled to such



consequential benefits, the same shall ensue accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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