

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5576 of 2011

Kameshwar Prasad Baghel, Aged about 59 years, R/o. Budul Ram Baghel, R/o. Village Garhola, PO Tilai PS Janjgir, District Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through: Secretary Department of Home Affairs, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
2. Director General of Police, Police Headquarters, District Raipur Chhattisgarh
3. Additional Director General of Police, Police Headquarters, District Raipur Chhattisgarh
4. Kunjan Lal, Aged about 56 years, R/o. Platoon Commander, 9th Battalion, Chhattisgarh Armed Forces, Dantewada, District Bastar, Chhattisgarh
5. Baran Lal, Aged about 57 years, R/o. Platoon Commander, 1st Battalion, Chhattisgarh Armed Forces, Bhilai, District Durg Chhattisgarh
6. Peela Das, Aged about 48 years, R/o. Platoon Commander, 1st Battalion, Chhattisgarh Armed Forces, Bhilai, District Durg, Chhattisgarh
7. Mahesh Ram, Aged about 19 years, R/o. Platoon Commander, 11th Battalion, Chhattisgarh Armed Forces, Bhilai, District Durg, Chhattisgarh
8. Ram Das, Aged about 56 years, R/o. Platoon Commander, 7th Battalion, Chhattisgarh Armed Forces, Bhilai, District Durg, Chhattisgarh
9. Shri Ram Verma, Aged about 55 years, R/o. Platoon Commander, 10th Battalion, Ambikapur, District Sarguja Chhattisgarh
10. Brijesh Tiwari, Aged about 37 years, R/o. Platoon Commander, 6th Battalion, Raigarh, District Raigarh Chhattisgarh

---Respondents

For Petitioner	:	Mr. Abhishek Pandey, Advocate
For State	:	Ms. Sunita Jain, G.A.
For Respondent No.7	:	Mr. Pramod Shrivastava, Advocate on behalf of Mr. A.K. Yadav, Advocate
For Respondent No.8	:	Ms. Naushina Ali, Advocate along with Mr. Ajay Kumrani, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/08/2019

1. The grievance of the petitioner in the present writ petition is the non-inclusion of the name of the petitioner in publishing Annexure P/2, the list of

candidates, who were selected for promotion from the post of Platoon Commander to Company Commander dated 18.08.2011.

2. The contention of the petitioner is that the petitioner was deprived of being selected to the said post on the ground that the petitioner did not have the field training experience as is required under the SOP No. 75/2010. The further contention of the petitioner is that subsequent to the filing of the present writ petition, another set of writ petitions were filed i.e. WPS No. 5525/2011 in respect of the same grievance and where the writ petition was allowed vide judgment dated 02.07.2012. It has been further submitted that pursuant to the said judgment dated 02.07.2012 in WPS No. 5525/2011, the respondent authorities have omitted the said clause of requiring field training vide order Annexure P/9 dated 04.06.2012 and later on the petitioner in the said writ petition was promoted vide order dated 28.11.2012. According to the petitioner, since pending the writ petition he has crossed the age of superannuation, perhaps his case has not been considered by the respondents.
3. The aforesaid factual matrix of the case has not been disputed by the State counsel, except the fact that the petitioner during the relevant period was posted not at Kanker, but was posted at the training school in District Janjgir-Champa.
4. Given the fact that the respondents have omitted the said clause in the SOP No. 75/2010 vide their order dated 04.06.2012, the place of posting becomes immaterial and the case of the petitioner would have to be considered as per his eligibility on the date of consideration, minus the two omitted portions of the SOP, which perhaps was the reason dis-entitling the petitioner from being selected for promotion.

5. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that the case of the petitioner also needs consideration in the light of the judgment of this Court passed in WPS No. 5525/2011, decided on 02.07.2012 and the consequential order passed by the State Government on 04.06.2012 omitting the two causes in the SOP.
6. The respondents are directed to consider the case of the petitioner and verify whether after the omission of the two clauses from the SOP, the petitioner becomes eligible for promotion when the impugned order Annexure P/2 was passed i.e. on 18.08.2011. If the petitioner on the said date is found to be eligible, then appropriate relief be granted to the petitioner. If the respondent authorities find that the petitioner was become eligible for promotion, under the said circumstances, since the petitioner in between has retired from service w.e.f. 28.02.2013, the benefit of promotion be extended notionally to the petitioner for the period till his retirement and the consequential retiral benefits, however should be actually paid to the petitioner accordingly.
7. With the aforesaid observations, the writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved