

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 6389 of 2018

Shivmurat Patel S/o Shri Motilal Patel, Aged About 34 Years
Occupation - Constable (1078) Under The S.P., S.T.F. Head Office,
Baghera, District Durg, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department of Home And Police Affairs, Mantralay, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. The Director General Of Police Police, Head Quarter, Raipur, District - Raipur, Chhattisgarh.
3. The Superintendent Of Police, S.T.F. Head Office, Baghera, District - Durg, Chhattisgarh.

---Respondents

For petitioner	:	Shri Rajesh Kumar Kesharwani, Advocate.
For State	:	Shri Rahul Mishra, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam KoshyOrder on Board06/02/2019

1. The challenge in the present writ petition is to the order dated 11.06.2018 (Annexure P-1) whereby the claim for out of turn promotion of the petitioner for having participated successfully in Naxalite operation has been turned down on the ground that the role of the petitioner in the operation was not very clear. The reply has been filed by the respondents and in the reply also the categorical ground raised is that the role played by the petitioner was not very clear. Hence, he could not be granted out of turn promotion.
2. At this juncture the counsel for the petitioner referred to the FIR which was lodged on the date of incident of naxalite attack i.e. 13.01.2017 and where there is the reference of the petitioner also having played an active

role in the operation. Further, from the contents of the writ petition also reveals that during the course of the investigation also the statement of the petitioner was also recorded which would establish the role played by the petitioner. Moreover, the out of turn promotion have been granted to 91 persons vide (Annexure P-7) but the name of the petitioner does not reflect in the same whereas the people who were associated in the same operation alongwith the petitioner have been granted the out of turn promotion. Moreover, from the order it does not reveal as to what was the specific role played by each of the persons in the different operation which entitled them the out of turn promotion.

3. Plain perusal of the impugned order as well as the contents of the reply of the State Government also would reveal that the stand of the respondents is that the role played by the petitioner is not clear. This contention of the State itself would reveal that there is no doubt in their minds so far as, the petitioner being involved in the operation, the only reasons assigned in fact is that the role of the petitioner could not be established by the respondents. The orders seem to be a bit self contradictory in itself as on one side there is no doubt in their mind of the petitioner being involved in the operation but it is only the role which he has played which is not clear. This could have been easily established from the contents of the FIR, the enquiry report and from the other officials and police personnels involved in the operation. For the aforesaid reasons in the opinion of this Court the impugned order needs reconsideration.

4. Accordingly, the said order dated 11.06.2018 stands set aside/quashed and the matter stands remitted back to the respondent No.2 – The Director General of Police to reconsider the case of the petitioner and after due scrutiny and verification of the records pass

afresh speaking order so far as, the claim of the petitioner for out of turn promotion. Let this experience be completed at the earliest preferably within a period of 90 days from the date of receipt of order of this Court.

5. The writ petition stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

jyoti