

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

6

+ **W.P.(C) 7797/2015**

RAMESH CHANDRA Petitioner

Through: Mr R.K. Shukla, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Ms Barkha Babbar, Advocate for
UOI.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER

% **17.01.2020**

1. The short issue is involved in the present petition as to the date from which the Petitioner should get his promotion as Assistant Sub Inspector/General Duty ('ASI/GD') from the post of Head Constable/General Duty ('HC/GD').

2. The Petitioner was appointed as Constable/General Duty ('Ct/GD') in the Indo-Tibetan Border Police ('ITBP') on 9th June, 1989 and was posted with the 19th Battalion at Kullu, Himachal Pradesh. He successfully completed the training on 27th March, 1990. Subsequently, he had also completed the RCO (Training) in April, 1999.

3. The Petitioner claims that he passed the map reading second level examination in the year 1994, while posted with the 19th Battalion, stationed

at Chhatha, Jammu. This, according to him, was a mandatory pre-requisite for being considered for promotion as HC/GD. The Petitioner was on deputation with the Delhi Police from September, 2001 till August, 2004..

4. Meanwhile, the batch mates of the Petitioner, and those juniors to him in the ITBP, were nominated for the Pre-Promotion Section Leader Course ('PPSLC'). Since the Petitioner was on deputation with the Delhi Police, he was not informed by the Commandant of his Battalion in the ITBP. His promotion as HC/GD, therefore, got delayed.

5. Aggrieved by the fact that his juniors had been promoted, the Petitioner submitted a representation dated 15th November, 2004, to the Commandant of the 14th Battalion seeking that he may also be nominated for the PPSLC along with his batch mates and juniors. On 19th June, 2005, the Petitioner was transferred to the 21st Battalion, Pantha Chowk. In the meanwhile, he completed PPSLC conducted from 10th January, 2005 to 4th April, 2005. He cleared the C-List exam in August, 2005. On 8th February, 2007, the Petitioner made a request that his having qualified PPSLC, the same may be entered in his service book. He made further representations on 12th January and 20th February, 2008.

6. Meanwhile, his juniors were promoted as HC/GD in the year 2007, whereas the Petitioner was promoted as HC/GD in 2010 and was further promoted as ASI/GD. The Petitioner then made a representation on 21st October, 2014. Thereafter the present petition was filed.

7. In the reply filed to the petition, the stand taken by the Respondents *inter*

alia is that the Petitioner completed the map reading test in 2004 and that an entry to this effect was made by a message dated 17th October, 2004.

8. There appears to be some controversy whether the Petitioner cleared the map reading course in the year 1999 or 2004, as claimed by the Respondents. Notwithstanding the above, learned counsel for the Petitioner relies on the Standing Order No.1/92 dated 22nd July, 1992, in terms of which, the personnel otherwise eligible but unable to be detained for the requisite promotional course, would be protected, subject to the condition that they qualified in the concerned promotional course, “in the first attempt”. In such event, “they will be allowed to claim their seniority from the dates on which their juniors are promoted. However, the financial benefits will accrue to them only from the dates of taking over the charge of the new courses”.

9. Learned counsel for the Petitioner relies on a judgment dated 19th November, 2015 of the Division Bench of this Court in W.P.(C) No.2356/2013 (***Tarendra Kumar Jain v UOI***), where the same standing order was applied and relief was granted.

10. In the present case, notwithstanding that the Petitioner, according to the Respondents, passed the map reading test only in 2004, since he cleared it in the first attempt, he cannot be denied the benefit of the Standing Order No.1/92. The decision in ***Tarendra Kumar Jain*** further supports this conclusion.

11. The Respondents are accordingly directed to notionally fix the date of the promotion of the Petitioner as ASI/GD on the date on which his juniors were so promoted, for the purposes of fixation of pay for the promotions, etc. However, it is made clear that there will be no arrears of pay accruing to the Petitioner and all financial benefits will accrue only from the date of his actually taking over charge as ASI/GD. The consequential orders be issued by the Respondent within 12 weeks from today.

12. The petition is allowed in the above terms. No costs.

S.MURALIDHAR, J

TALWANT SINGH, J

JANUARY 17, 2020

rd