

Sl No.5
05.02.2021
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 5 of 2021

**Prabhat Kumar Manna
-versus-
Union of India and Ors.**

Mr. Ashit Kumar Das
Mr. Santosh Kumar Dhar
...for the petitioner

Mr. Sudipta Kumar Mazumder, Ld. A.S.G.
Mr. Ashok Kumar Ghosh
Ms. Swarnali Ghosh (Sengupta)
...for Union of India

Though the learned advocate for the respondents have prayed for accommodation to get instruction from the concerned department and apprise the Court about the issue, I am of the view that the instant writ petition can be disposed of here and now even without obtaining any view of the respondents.

It is an established proposition of law that right to promotion is not a vested right of an employee. He cannot claim promotion as of right but legitimate expectation of promotion is of course a subject matter of judicial review.

Now, the facts.

The petitioner is now posted as Inspector (Armourer) since 12th July, 2013 at Frontier Headquarter Sashastra Seema Bal (SSB), Siliguri. It is

the case of the petitioner that there was restructuring of cadre and hierarchy in SSB in the year 2011. Two tiers of promotional posts in Inspector (Armourer/Tech.) were created, viz. Assistant Commandant (Technician) and Deputy Commandant (Tech.). In the cadre of Assistant Commandant (Tech.) two posts were created and in the cadre of Deputy Commandant (Tech.) three posts were created. After creation of the posts as stated above a draft Recruitment Rules was sent to the Ministry of Home Affairs, Union of India. The said Recruitment Rules have not been finalized as yet and for this reason, though the petitioner is placed in serial No.2 in the seniority list, he is not getting his next promotion. Practically, he is now eligible to be promoted to the post of Assistant Commandant (Tech.)

I have perused the letters written by the higher authorities of SSB. Copies of those letters were annexed with the instant writ petition. In all the said letters the petitioner was informed that the Recruitment Rules is under consideration by the MHA. In this way his promotion is stuck off since 2015.

The respondent cannot sit tight over the finalization and notification of the Recruitment Rules. Therefore, the respondent No.4 is directed to settle the Recruitment Rules within six weeks from the date of communication of this order and publish the same for

the knowledge of members of SSB. Upon publication of the Recruitment Rules, the respondent Nos. 2 and 3 shall consider the case of the petitioner in accordance with law.

Accordingly, the instant writ petition is disposed of on contest, however, without costs.

(Bibek Chaudhuri, J.)