

Jagdip Singh Vs. the State of Bihar and ors.

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Court : Patna

Decided On : May-11-2005

Judge : Navin Sinha, J.

Appeal No. : CWJC No. 11746 of 1999

Appellant : Jagdip Singh

Respondent : The State of Bihar and ors.

Disposition : Writ dismissed

Judgement :

Navin Sinha, J.

1. Heard Learned counsel for the petitioner and the learned Counsel for the State.
2. The claim in the present writ application is for grant of seniority as Assistant Sub-Inspector of Police from 1.5.1965 in place of 3.7.1970 as granted by the respondents. Consequently the petitioner would claim seniority on the basis of the officiating promotion given to him as a Sub Inspector on 21.6.1971 while the respondents would grant the benefit to him from 3.7.1975. In pursuance of such decision by the respondents the petitioner has been granted seniority as Inspector from 4.5.1990.

3. Learned Counsel for the petitioner would submit that in pursuance of the order of this Court in CWJC No. 6548/93 on 18.8.1993 the respondents through the Director General of Police Board by a decision dated 25.2.994 at Annexure 4, held that the petitioner was entitled to the benefit of continuous officiation on the post of Sub Inspector from the date of the officiating promotion and his seniority was to be fixed accordingly. In a contempt application preferred by the petitioner, MJC 1768/93, the respondents reiterated the stand. Therefore the impugned order dated 11.7.1995 at Annexure 7 granting him seniority in the rank of Sub Inspector from 3.7.1975 in place of 21.6.1971 being the date of officiating promotion, was contrary to law as also their own decision.

4. Learned Counsel for the State submitted that if the officiating promotion granted to the petitioner as a Sub Inspector, was on 21.6.1971 was in consonance with law the petitioner would surely be entitled to count the period of officiating service for the purpose of seniority and promotion. If such officiating promotion be not in accordance with law the petitioner would be entitled to the said benefit after completion of the period of five years under the Bihar Police Manual, 1930 and in pursuance of which the seniority of the petitioner had been fixed as a Sub-Inspector from 3.7.1975. He placed reliance on Rule 659 of the Police Manual which would provide a complete procedure for promotion from the post of Assistant Sub Inspector to Sub Inspector. Reliance was placed on Clauses (c), (d) and (e) of the aforesaid Rule to contend that the matter was to be assessed by a Range Selection Board which would recommend the nominees who would be interviewed by the Central Selection Board. In the present case, this procedure not having been followed the officiating promotion granted to the petitioner was not in consonance with law and therefore he was not entitled to count the period of officiating service for the purpose of seniority and promotion. There would thus be no infirmity in the order dated 11.7.1995 at Annexure 7 at variance with the recommendation of the Director General of Police Board dated 25.2.1994 at Annexure 4, In support of his submission he relied on a Division Bench order of this Court in LPA No. 117/96 dated 26.4.2004. This Court notices that while considering similar claim for grant of seniority and promotion accordingly on the basis of period of officiating service as Sub-Inspector of Police, the Division Bench while setting aside the relief so granted by the Single Judge held in para 4 as

follows :

'Rule 653 of the Bihar Police Manual contains a provision with regard to appointment and promotion to the post of Sub Inspectors and it provides that 50 per cent of the post of Sub Inspectors of Police have to be filled up by selection from the rank of Assistant Sub Inspectors. Rule 659 contains a detailed procedure for consideration of the matter of promotion. It requires constitution of a Range Deputy Inspector General's Board, which shall make selection from those nominated from the districts and shall send names for consideration to the Central Selection Board. The Central Selection Board shall make selection after observing formality as provided in the said Rule.'

5. The situation in the present case being similar the reasonings given in para 6 of the aforesaid Division Bench order which is quoted below for ready reference would apply with equal force in the present case also ;

'In the case of State of Bihar and Ors. v. Kameshwar Prasad Singh, reported in AIR 2000 Supreme Court 2306, which was a case of promotion from the post of Sub-inspector to the post of Inspector, the Apex Court held that when the initial promotion was on ad hoc basis and not according to the rules, the officiation in such post cannot be taken into account for considering the seniority.'

In the circumstances this Court finds no merit in this writ application which is accordingly dismissed.

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