

Beni Bahadur Singh Vs. State of U. P. and Another

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Court : Allahabad

Decided On : Jul-22-1998

Reported in : 1999(1)AWC810

Judge : R.H. Zaidi, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 4044 of 1989

Appellant : Beni Bahadur Singh

Respondent : State of U. P. and Another

Advocate for Def. : C.S.C.

Advocate for Pet/Ap. : R.N. Gupta and ;Amit Bose, Advs.

Judgement :

R.H. Zaidi, J.

1. Heard the learned counsel for the petitioner, learned standing counsel and also perused the record.

2. By means of this petition, petitioner prays for issuance of a writ, order or direction in the nature of certiorari quashing the order dated 2.6.1989, whereby the claim of the petitioner for absorption on the post of Sub-Inspector in Civil Police

has been rejected by the Senior Superintendent of Police, Lucknow.

3. For the purposes of deciding the controversy involved in the present case. It is not necessary to state the facts of the case in detail. It will suffice to state that cases of the Head Constables of Police who were promoted to the post of Sub-Inspectors but were subsequently reverted to the post of Head Constables, were considered by this Court and by Supreme Court and ultimately it was directed that the Sub-Inspectors who have completed 40 years of age on 30th of September, 1984 and who have completed three years continuous service as Sub-Inspectors on 30th of September, 1984 and their work and conduct was satisfactory, will be entitled to be absorbed as Sub-Inspectors of Police.

4. Under the orders of this Court, the case of the petitioner for absorption as Sub-Inspector of Police in Supernumerary posts created under the orders of Supreme Court, was also considered by the Committee appointed for the said purposes. The Committee reported to the respondent No. 2 that the petitioner has not completed 40 years of age on 30th of September, 1984, his age was short by one month on the relevant date, therefore, his claim was rejected by the respondent No. 2, by impugned order dated 2.6.1989.

5. Learned counsel for the petitioner submitted that as the petitioner has completed three years continuous service as Sub-Inspector of Police on the relevant date, he was entitled to be appointed/absorbed as Sub-Inspector of Police.

6. Before the Senior Superintendent of Police or before the Committee, the petitioner never claimed that he has completed three years continuous service as Sub-Inspector. It is for the first time that this point has been taken up by the petitioner before this Court.

7. In my opinion, all the three conditions, i.e., 40 years or more age on 30.9.1984, three years continuous service as Sub-Inspector of Police on the said date and satisfactory work and conduct are co-extensive, therefore, merely because the petitioner has completed three years service, that will not entitle him for the appointment on the post in question. A person before he claims the benefit of G.O.

dated 1.12.1984 and judgments and orders of this Court and Supreme Court must fulfil all the three conditions noted above.

8. Further petitioner has not proved that he was validly appointed as Sub-Inspector by the competent authority and on the said date, he has completed three years after his valid appointment. On the record, neither the appointment letter has been placed by the petitioner nor any other material to substantiate his claim. From the averments made in the counter-affidavit, it is apparent that the petitioner has never been appointed as Sub-Inspector of Police regularly. He was permitted to work till regularly selected candidates were appointed. On appointment of regularly selected and qualified Sub-Inspectors, he was reverted to the post of Head Constable in the year 1992.

9. In view of the aforesaid facts, I do not find any ground for interference under Article 226 of the [Constitution of India](#). The writ petition fails and is dismissed, but without any orders as to costs.