

Shiv Kumar Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Sep-14-1998

Reported in : 1998(4)AWC127; [1999(81)FLR552]

Judge : D.P. Mohapatra, C.J. and ;G.P. Mahtur, J.

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

Appeal No. : Special Appeal No. 223 of 1998

Appellant : Shiv Kumar Singh

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Suresh Singh and ;L.P. Naithani, Adv.

Judgement :

D.P. Mohapatra, C.J. and G.P. Mathur, J.

1. The appellant's claim for being given out of turn promotion from the post of Head Constable to that of Sub-Inspector was rejected on 3.4.1996. He filed Writ Petition No. 22670 of 1996 in which an interim order was passed on 7.10.1996 directing Inspector General of Police to decide the appellant's application by a speaking order. The application was rejected by the Director General of Police by the order dated 12.12.1996. The writ petition was thereafter amended in which the

aforesaid order was challenged. Ultimately the learned single Judge dismissed the writ petition by the Judgment and order dated 18.2.1998. The present special appeal has been preferred assailing the said order.

2. The State Government issued a G. O. on 3.2.1994 which provides for granting out of turn promotion to Head Constables of Police Force who show exemplary courage and bravery in the discharge of their duties. The appellant claims that his case was covered by the aforesaid G. O. and, therefore, he was entitled to be given out of turn promotion. A Committee of respondent Nos. 7, 8 and 9 was constituted by the State Government to consider cases regarding grant of out of turn promotion. The said Committee considered the case of the appellant and came to a conclusion that in the incident in question no police personnel had shown any exemplary courage or bravery and, therefore, no one could be given out of turn promotion. Sri L. P. Natthani, learned senior counsel for the appellant, has submitted that a recommendation had been made by the Magistrate who had conducted a magisterial inquiry in the matter that the appellant deserved out of turn promotion and, therefore, the impugned order denying him promotion is illegal. We are unable to accept the contention raised. In order to decide the claims for out of turn promotion, the State Government had constituted a Committee of three senior officers of the police force and the said committee examined the case of the appellant. It is not the case of the appellant that his case has not been considered by the Committee constituted for this purpose. It is well-settled that while exercising power of judicial review under Article 226 of the Constitution, this Court is only concerned with the decision making process and not the decision itself. The learned counsel for the appellant has not been able to point out that any illegality or irregularity has been committed while taking the decision that the appellant did not deserve out of turn promotion and in these circumstances there is no ground for interference.

3. Even on merits, we do not think that it can be held that the appellant has shown exemplary courage and bravery in discharge of his duties. The record shows that at about 2.30 p.m. on 17.5.94 a robbery was committed in the house of Suresh Chand Goel by four persons. Some ornaments of his wife were snatched and some money was also taken away. In the said incident, the wife of Suresh Chand

Goel was assaulted by a knife and she sustained two skin deep Incised wounds and an abrasion. The robbers were given a chase by some persons of the locality and information regarding the same was given at the police station by telephone. A police party headed by Sri Jaswant Singh, S.H.O. and eight other police personnel including the appellant then proceeded for the spot on a Jeep. Meanwhile two robbers had entered in a field which had been surrounded by about twenty five persons. The police party then succeeded in killing the aforesaid two robbers. In the Government Order dated 3.2.1994, it is provided that such police personnel who had shown exemplary courage and bravery in an encounter with or arrest of dreaded terrorists or hardened criminals would be given out of turn promotion. The committee has held that in the incident, no police personnel received any Injury nor any modern or automatic weapon was recovered from the possession of the robbers who were killed. It has. been further held that Jn the incident, nine members of the police force armed with service weapons had participated. Therefore, it could not be held that any one of the police personnel had shown any exemplary courage or bravery. We are of the opinion that on the facts of the case the decision of the committee cannot be said to be either perverse or irrational.

4. For the reasons mentioned above, we find no merit in this special appeal which is hereby dismissed summarily.

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