

Devendra Thakur Vs. the State of Jharkhand,

Devendra Thakur Vs. the State of Jharkhand,

SooperKanoon Citation : sooperkanoon.com/848923

Court : Jharkhand

Decided On : Feb-25-2010

Judge : D.G.R. Patnaik, J.

Appellant : Devendra Thakur

Respondent : The State of Jharkhand,; the Director General of Police,; the Additional Director General of Police,

Judgement :

D.G.R. Patnaik, J.

1. In the counter-affidavit filed on behalf of the respondent State, pursuant to the direction contained in the last order, it is admitted that the Promotion Board/Selection Committee of the CID, Govt. of Jharkhand had found the petitioner fit for promotion from Photo Sub Inspector to the post of Photo Inspector and the Committee had communicated its recommendation to the DIG, Human Rights in favour of the petitioner on 24.12.2002. However, notwithstanding such recommendation, the petitioner's promotion could not be given since the D.G. Board did not find the petitioner fit for promotion to the rank of Inspector. The petitioner, in reply to his query as to why his name was left out from the Circular issued by the D.G. Board, was informed that there is no post of Photo Inspector in the Photo Bureau, CID, Jharkhand and hence, the petitioner's case for his promotion to the aforesaid post could not be taken up. It is further submitted that

the petitioner has since retired from service, but his case has again been forwarded to the Screening Committee, CID for consideration as to whether he could be granted the benefits of 3rd ACP upon his completing 30 years of service before retirement. However, since the petitioner's ACRs for the year 2005-06 and 2006-07 could not be readily available, his case could not be considered by the Screening Committee at its has meeting held in the month of January 2010.

2. Learned counsel for the petitioner would argue that the statements as contained in the supplementary counter-affidavit, do not appear to be convincing. Learned counsel argues that if there was no post of Photo Inspector in the Photo Bureau of the CID, then the petitioner cannot be allowed to stagnate in the rank of Sub Inspector and on the scale applicable to the Sub Inspector of Police. Referring to Annexure-D/1 annexed to the counter-affidavit of the respondents, learned Counsel explains that this annexure is an extract of the Appendix 22 of Rule 422 of the State Police Manual and it lays down guidelines in respect of the appointment and promotion of the employees appointed in the Photo Bureau of the CID. Learned counsel submits that as per the provisions of Rule 2(Kha) of the Appendix, officers in the Photo Bureau can be appointed from among those who belong to the general police category. Learned counsel submits further that the Rules also provide for post of Senior Experts whose appointment can be made by promotion from the rank of Junior Experts according to seniority through departmental selection committee consisting, of Deputy Inspector General and Superintendent, C.I.D. and Director, Photo Bureau. The ratio between the Junior and Senior Experts will be 2:1. Learned counsel submits that if there is no further promotional avenues available to the petitioner in the said branch above post of Sub Inspector, then the respondents ought to have considered that the petitioner gets at least the benefits of higher pay scales applicable to the Senior Experts on the Selection Grade.

3. From the rival submissions, two significant aspects do emerge. Firstly, the petitioner's original appointment was in the general police category and he was later shifted to the Photo Bureau of the CID, Ranchi. He had attained the status of Sub Inspector of Police in the Photo Bureau. His case along with other officers of the rank of Inspector was considered by the Screening Committee and he was

found fit for promotion, but the only ground on which his promotion to the post of Inspector was refused, is that in the Photo Bureau of the CID branch, there is no post of Inspector. If this was so, then the petitioner ought to have been given an option to withdraw himself from the Photo Bureau of the CID and to join the general branch of the police alternatively. Alternatively, instead of allowing him to stagnate in the post of S.I. Police while other officers of the same rank have been allowed promotional benefits, the concerned authorities of the respondents could have ensured that the benefits of the higher pay scales by way of selection grade scales is given to the petitioner.

The other aspect which appears is that though, having recognized the fact that the petitioner had put in more than 30 years of service prior to the date of his retirement and his name was forwarded to the Screening committee for considering the grant of benefits of the 3rd ACP, but even this has not been done only on the ground that his ACRs for two years were not readily available This is a ridiculous excuse which appears to have been taken only to deny the petitioner the benefit which he may have legitimately earned.

4. Considering the above facts and circumstance, this application is disposed of with a direction to the concerned authorities of the respondents to consider the petitioner's case and his claim for grant of monetary benefits of the higher scales applicable to the selection grade ' Senior Experts, from the date when he was, found fit by Screening Committee for his promotion to the post of Inspector. Alternatively, the respondents shall consider the petitioner's case for grant of the 3rd ACP to him, as per the Rules applicable. The decision in terms of the direction contained herein-above, shall be taken by the concerned authorities of the respondents within a period of three months from the date of receipt/production of a copy of this order.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.