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SHAMSHER SINGH SANDHU

v.

UNION OF INDIA AND OTHERS

(Civil Appeal No. 266 of 2020)

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JANUARY 14, 2020

**[DR. DHANANJAYA Y CHANDRACHUD
AND AJAY RASTOGI, JJ.]**

Service Law – Promotion to the rank of Inspector General of

- C *Police – Claim of – The order of promotion was granted to the appellant to the rank of IG until he was reverted to the rank of DIG – The order of reversion was stayed by the High Court – Thereafter, both Single Judge and, in appeal, the Division Bench of the High Court rejected the plea of the appellant to substantive promotion to the rank of IG – The Supreme Court directed maintenance of status quo – The appellant continued to work as an IG rank officer until the date of his superannuation – The appellant sought retiral benefits as an IG rank officer and also sought liberty to pursue his remedies for promotion to the post of Additional DGP – Held: In exercise of jurisdiction u/Art. 142, the retiral dues of the appellant be computed and released on the basis that he has retired from service in the substantive rank of an IG – However, having perused the record, particularly the report of the Medical Board which was constituted finally in pursuance of the directions of the High Court, no further directions for the consideration of the case of appellant to the rank of Additional DGP to be issued – The appellant's claim for promotion as Additional DGP is in consequence not accepted.*
- D *and*
- E *and*
- F *and*

Disposing of the appeal, the Court

HELD: 1. The appellant continued to work, pursuant to the order of promotion that was granted to him to the rank of IG until he was reverted to the rank of DIG. The order of reversion

- G *was passed without the issuance of a notice to show cause and without furnishing any opportunity of being heard to the appellant. During the pendency of the proceedings before the High Court, the order of reversion was stayed. Then again, when the proceedings came before this Court upon the dismissal of the*

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Writ Petition as well as the Letters Patent Appeal, this Court directed the maintenance of *status quo*. The appellant, as a result of the interim order passed by this Court, continued to work as an IG rank officer until the date of his superannuation. He did so for a period of nearly four years. [Para 8][1028-E-G] A

2. Having regard to the above factual position, this Court is of the view that the ends of justice would require a direction by this Court, in exercise of its jurisdiction under Article 142 of the Constitution, that the retiral dues of the appellant be computed and released on the basis that he has retired from service in the substantive rank of an IG. However, having perused the record, particularly the report of the Medical Board which was constituted finally in pursuance of the directions of the High Court, this Court is not inclined to issue any further directions for the consideration of the case of the appellant to the rank of Additional DGP and this Court is of the view that the matter must rest there. The appellant's claim for promotion as Additional DGP is in consequence not accepted. [Para 9][1028-G-H; 1029-A-B] B

3. Direction that the retiral dues of the appellant shall be computed and released to him within a period of two months from the date of receipt of a certified copy of this order on the basis of the position that he retired as an IG on 31 January 2016. The sealed cover shall, in consequence, be returned to the respondents. The appellant shall have no further claim for promotion as an Additional DGP. [Para 10][1029-C] C

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 266 of 2020. D

From the Judgment and Order dated 29.10.2014 of the High Court of Jammu and Kashmir at Srinagar in L.P.A. No. 08 of 2014. E

P.S. Patwalia, Sr. Adv., Ms. Prerna Mehta, Advs. for the Appellant. F

Aman Lekhi, ASG, Anmol Chandan, T.A. Khan, Shirin Khajuria, B.V. Balaram Das, Prakash Kumar Sinha, Rajeev Singh, Advs. for the Respondents. G

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- A The Judgment of the Court was delivered by
DR. DHANANJAYA Y CHANDRACHUD, J.
- B 1. Leave granted.
- C 2 This appeal arises from a judgment and order of the High Court of Jammu and Kashmir dated 29 October 2014 in a Letters Patent Appeal¹.
- D 3. The dispute in the present case pertains to the claim of the appellant for promotion to the rank of Inspector General of Police². The appellant was holding the rank of Deputy Inspector General³ in the CRPF, having initially been inducted into the service in 1976. When his turn came up for being considered for promotion as an IG, the Annual Medical Examination on 22 June 2011 categorized the appellant as S1H1A1P2E1 (T-24) rendering him unfit for promotion. In the Annual Medical Examination on 4 January 2012, he was again categorized as S1H1A1P3E1 (T-12). A Review Medical Board was convened on 16 June 2012 which assigned to the appellant a SHAPE 2 (T-24) categorization. Again on 13 July 2012, at the behest of the appellant, a Medical Board was constituted of officers outside the CRPF which on 13 July 2012 assigned to the appellant a SHAPE 2 (Permanent) categorization. This was followed by a Medical Board on 26 July 2012 under the directions of the Union Home Secretary. Eventually, on 27 August 2012 and 31 August 2012, the appellant was examined at the Dr Ram Manohar Lohia Hospital in which he was assigned the medical categorization of S1H1A1P1 (o024)E1. On 4 January 2013, a Medical Board was constituted at the All India Institute of Medical Sciences, but the appellant did not present himself for medical examination. In February 2013, a Medical Board chaired by the ADM (Medical), with two IG rank officers in the Medical Division of other Forces, was constituted, which reported the appellant to be in the SHAPE 2 (Permanent) category.
- E 4. The appellant had instituted proceedings before the High Court of Jammu and Kashmir, which resulted in interim directions in pursuance of which the appellant was initially examined by a Board of the All India Institute of Medical Sciences. The report of the Board dated 2 July 2014 was examined by a Committee constituted by the Ministry of Home

¹ LPA No 08/2014

² IG

H ³ DIG

Affairs. The Committee opined that the appellant was in a SHAPE 3 (Permanent) category with a longstanding case of diabetes and hypertension. It may be noted, at this stage, that during the chequered history of the present case, the appellant was, on the basis of the report of the Dr Ram Manohar Lohia Hospital, granted promotion as an IG in September 2012. The appellant was posted as IG (Operations) with the CRPF in Jammu and Kashmir. Subsequently, on 3 April 2013, the order of promotion was withdrawn with immediate effect following which he was reverted to the rank of DIG. The order of reversion was stayed by the High Court on 9 April 2013, as a result of which, the appellant continued to work as IG. Both the learned Single Judge and, in appeal, the Division Bench rejected the plea of the appellant to substantive promotion to the rank of IG. On 13 November 2014, this Court, while issuing notice on the Special Leave Petition, directed that the *status quo* shall be maintained by the parties until further orders. As a consequence of the interim order passed by this Court, the appellant continued to work in the rank of IG until his eventual retirement from service on 31 January 2016.

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5. During the pendency of these proceedings, on 8 September 2015, this Court directed the constitution of a supplementary Departmental Promotion Committee⁴ to consider the appellant for promotion to the rank of Additional DGP, CRPF. A DPC was convened on 21 October 2015, the result of which has been placed in a sealed cover.

6. Mr P S Patwalia, learned senior counsel appearing on behalf of the appellant, assailed the judgment of the High Court by submitting that the categorization of the appellant by the Dr Ram Manohar Lohia Hospital ought to have been accepted by the authorities. Learned senior counsel submitted that the appellant was reverted from the rank of IG to that of a DIG without a notice to show cause and an opportunity of being heard. Mr Patwalia urged that the appellant had an outstanding record as an IG (Operations) in Jammu and Kashmir and it would be unfair to deny him retiral benefits as an IG rank officer. The second limb of submission is that the case of the appellant was considered by the DPC in pursuance of the interim order of this Court and the sealed cover should be directed to be opened, with liberty to the appellant, in the event that he is aggrieved, to pursue his remedies for promotion to the post of Additional DGP.

⁴ DPC

- A 7. Mr Aman Lekhi, learned Additional Solicitor General, on the other hand, submitted that the record would indicate that the appellant had been examined on numerous occasions by the Medical Boards and was not found to fulfill the benchmark required of being a SHAPE I category officer. Mr Lekhi submitted that the report which was submitted by the Dr Ram Manohar Lohia Hospital had to be placed for consideration for appropriate classification by the Medical Board of CRPF under clause 4.7 of the Standing Orders absent which the promotion which was granted to the appellant was contrary to the rules. That apart, it has been urged that before the High Court, the appellant was examined by a Board of the All India Institute of Medical Sciences and the report of the Medical Board was duly considered by a Committee constituted by the Ministry of Home Affairs which came to the conclusion that the appellant was in a SHAPE 3 (Permanent) category. Mr Lekhi further submitted that, at the highest, the salary which has been paid over to the appellant for the period during which he worked as IG may not be withdrawn or recovered and there is no question of the retiral dues being disbursed to the appellant on the basis that he had retired as an IG rank officer. Consequently, it was urged that there is no question of any further consideration of the case of the appellant for promotion as Additional DGP.
- B 8. Having heard the rival submissions, the significant aspect of the case which merits emphasis is that the appellant continued to work, pursuant to the order of promotion that was granted to him to the rank of IG until he was reverted to the rank of DIG. The order of reversion was passed without the issuance of a notice to show cause and without furnishing any opportunity of being heard to the appellant. During the pendency of the proceedings before the High Court, the order of reversion was stayed. Then again, when the proceedings came before this Court upon the dismissal of the Writ Petition as well as the Letters Patent Appeal, this Court directed the maintenance of *status quo*. The appellant, as a result of the interim order passed by this Court, continued to work as an IG rank officer until the date of his superannuation. He did so for a period of nearly four years.
- C 9. Having regard to the above factual position, we are of the view that the ends of justice would require a direction by this Court, in exercise of its jurisdiction under Article 142 of the Constitution, that the retiral dues of the appellant be computed and released on the basis that he has retired from service in the substantive rank of an IG. However, having

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perused the record, particularly the report of the Medical Board which was constituted finally in pursuance of the directions of the High Court, we are not inclined to issue any further directions for the consideration of the case of the appellant to the rank of Additional DGP and we are of the view that the matter must rest there. We have in consequence accepted the second limb of the submissions urged by Mr Lekhi, the learned ASG. The appellant's claim for promotion as Additional DGP is in consequence not accepted.

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10. We accordingly dispose of the appeal with a direction that the retiral dues of the appellant shall be computed and released to him within a period of two months from the date of receipt of a certified copy of this order on the basis of the position that he retired as an IG on 31 January 2016. The sealed cover shall, in consequence, be returned to the respondents. The appellant shall have no further claim for promotion as an Additional DGP. There shall be no order as to costs.

Ankit Gyan

Appeal disposed of.