

Randhir Singh Dabas vs Union Of India And Anr on 22 February, 2019

Author: Vipin Sanghi

Bench: Vipin Sanghi, A. K. Chawla

\$~21

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 1812/2019
RANDHIR SINGH DABAS Petitioner
Through: Mr. S.C. Sagar and Mr. Manoj
Kumar, Advs.

versus

UNION OF INDIA AND ANR. Respondents
Through: Mr. Manik Dogra and Ms. Aakanksha
Kave, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA
ORDER

% 22.02.2019 The petitioner has preferred the present writ petition to assail the order dated 11.10.2018 passed by the Central Administrative Tribunal, Principal Bench (Tribunal) in O.A. No. 2253/2013. The petitioner's grievance was that he had not been considered for promotion even though he had the qualifying service when the DPC met to consider promotions to the post of Civilian Security Officer (CSO). His claim for the promotion from the post of Civilian Assistant Security Officer (CASO) to the next higher post of CSO for the panel year 2007-08 has been found to be unjustified by the Tribunal, on the ground that none of his juniors were promoted when the promotions for the panel year 2007-08 were held and, therefore, the petitioner had no valid grievance.

While serving as the CASO as a probationer, the petitioner was charge-sheeted in a case under Section 498-A IPC. Consequently, his probation was continued, while the probation of other similarly situated CASO was ended, and they were confirmed. In the meantime, the promotion process was undertaken by the respondents, and some of the officers (CASO) were promoted. The grievance of the petitioner was that since he was not confirmed, his candidature for promotion was not considered, which ought to have been so considered as he had the qualifying service.

The respondents filed their counter-affidavit before the Tribunal. It was stated that a total of 19 persons were appointed to the post of CASO by direct recruitment through UPSC in the year 2000 who were placed under probation for a period of two years. Out of 19 CSOs, 16 were confirmed after successful completion of probation period. Remaining 3 CASOs, including the petitioner, were not

confirmed being involved in criminal/disciplinary case. The petitioner was confirmed after his acquittal in the said case on 19.01.2011. However, his confirmation was with effect from the date of his initial appointment. The respondents stated that the petitioner has suffered no prejudice due to his extended probation and belated confirmation, since none of his juniors from General Category has superseded him in the promotion process which has taken place for the panel year 2007-08.

Learned counsel for the petitioner submits that three of the juniors, namely Sibdas Sikdar, Ashok Shamrao Wasekar and Subhash Chandra Dodamani, whose names figured at serial no. 38, 39 and 42, were juniors to the petitioner. The petitioner's name figures at serial no. 32 in the seniority list of CASO. The said officers were promoted prior to the petitioner. However, it is seen that the first two of these officers are Scheduled Castes and third is Scheduled Tribe category officer. They were promoted against the reserved quota in the promotional post. None of the others, who were promoted earlier, were junior to the petitioner.

Mr. Sagar submits that the petitioner has taken a ground in the Original Application that the reserved category posts could not have been carried forward. We find that no relief was sought in that respect before the Tribunal, and the said officers were not impleaded as party respondents, though they would have been directly affected, if the carrying forward of the reserved vacancies were to be set aside. Thus, we find no merit in this submission of Mr. Sagar.

Mr. Sagar further submits that since the petitioner had completed the qualifying service when DPC was held, he should have been considered along with his seniors against the panel year 2007-08. On our query, Mr. Sagar states that under the Recruitment Rules, the criteria for promotion is seniority-cum-merit. Since the petitioner's seniors have been promoted, even this submission has no merit, because it is not a case where somebody senior to the petitioner, though found 'unfit', has been promoted. Thus, his seniors would have been promoted before him, even if his candidature were to be considered. We, therefore, find no merit in this petition.

Dismissed.

VIPIN SANGHI, J A. K. CHAWLA, J FEBRUARY 22, 2019/nn