

WP(C) 856/2001
BEFORE
THE HON'BLE MR. JUSTICE I. A. ANSARI

(1) With the help of the present application made under Article 226 of the Constitution of India, the petitioner has approached this Court with the grievance that he has been unjustly denied promotion and his juniors have been made to supersede him.

(2) In a nut-shell, petitioner's case may be narrated as follows: the petitioner was appointed as a Sub-Inspector of Police (hereinafter as 'SI') under the Govt. of Arunachal Pradesh as far back as on 01. 03. 78 and since then, he continues to remain in the same post though persons junior to him have been promoted to the rank of Inspector of Police by various orders passed by the respondent No. 2 from time to time between 1988 and 1989. The petitioner has made several representations to the respondent No. 2, but the same have proved futile. The office of the respondent No. 2, vide order no. PHQ146/si/, dated 20. 07. 1982, issued gradation list of 73 UB/ab Sub-Inspectors of police and in this gradation list, the petitioner has been placed at SI. No. 58 (Annexure-A/1 to the writ petition). By order No. PHQ/si/ 78/pt, dated 05. 05. 88, the respondent No. 2 promoted 14 SIs to the rank of Inspector of police including the respondent Nos. 3 to 7, whose names appear in SI. Nos. 59 to 66 of the said gradation list. The petitioner made his representation against the such supersession, the representation so made being on 06. 04. 88 (Annexure-A/4 to the Writ Petition). By order/ letter No. PHQ/acr/con/dt/54, dated 16. 5. 88 (Annexure-5 to the writ petition), the petitioner was informed that his Reporting Officer had recorded some adverse remarks in the petitioner's ACR for the period from 07. 03. 87 to 24. 04. 87. The petitioner was asked to submit his representation, if any, within six weeks against the adverse remarks so made. In this regard, the petitioner made his representation (Annexure-A/6 to the writ petition) on 25. 08. 88, wherein he stated that the said adverse remarks were motivated and made on extraneous considerations. Based on the representation, so made by the petitioner, the adverse remarks were partially modified. This information was communicated to the petitioner by letter/order No. PHQ/acr/con/ft, dated 29. 11. 88 (Annexure-A/8 to the writ petition) issued by the Office of the respondent No. 2. Thereafter, by message No. PHQ/r/144/ac/ 78/st. dated 10. 11. 89, respondents No. 8, 9 and 10 were promoted to the rank of Inspector of Police w. e. f. 10. 11. 89, but the petitioner was, again, denied promotion. By order, No. PHQ/144/si/78/pt, dated 27. 04. 90, respondent No. 2 promoted respondent No. 7 to the post of Inspector of Police w. e. f. 15. 05. 90, though respondent No. 17 is junior to the petitioner as the latter's name appears at si. No. 72 of the said gradation list. Thereafter, by various other orders, the remaining private respondents, who are also junior to the petitioner, were promoted to the posts of Inspector of Police, but the petitioner was denied his lawfully earned promotion. By letter/ order No. PHQ/acr/con/dt, dated 07. 05. 90 (Annexure-A/12 to the writ petition) respondent No. 2 communicated to the petitioner about entry of adverse remarks in his acr for the period from 01. 04. 88 to 31. 03. 89. The petitioner made his representation on the adverse remarks so communicated to him stating to the effect that the remarks were not based on facts. In response to this representation, even the adverse remarks made during the period from 01. 04. 88 to 31. 03. 89 were partially corrected. In this way, the petitioner has been made to work in the same post in which he had joined. The petitioner, therefore, claims that the respondents be commanded to accord promotion to the petitioner with effect from the date his juniors were promoted and the orders adversely affecting petitioner's promotional career be set aside and quashed.

(3) The respondents have filed their affidavits in opposition. the case of the respondents being briefly stated thus: Two meetings of the departmental Promotion Committee (hereinafter as 'dpc') were held, one in the year 1988 and the other in the year 1991, for considering the cases of eligible candidates for promotion.

on to the posts of Inspector of Police. Though the petitioner's case was considered in the year 1988, he was not found fit for promotion by the DPC due to unsatisfactory service records. The DPC reviewed the case of the petitioner, on 26. 07. 91. following the petitioner's representation, but upon scrutiny of the petitioner's service record, the DPC found that the petitioner's overall performance had not improved and that he did not merit promotion. The petitioner was accordingly communicated the result of the review by the DPC. Subsequent thereto also, on every necessary occasion, petitioner's case for promotion has been considered by the DPC, but the DPC found the petitioner not fit for promotion and his representations have been considered from time to time. The persons junior to the petitioner have been promoted on merit and in accordance with the recommendations of the dpc, The petitioner has not been unjustly denied promotion. All representations made against adverse remarks entered into the ACRs of the petitioner's as well as representations made against his supersession have been considered, but on account of unsatisfactory and indifferent ACRs of the petitioner, he has not been promoted. The views of the DPC have been based on merit and may not be interfered with.

(4) I have heard Mr. T. Siram, learned counsel for the petitioner, and Mr. R. H. Nabam, learned Additional Senior Govt. Advocate.

(5) Having heard learned counsel for the parties and having perused the materials on record, what becomes glaring to the eyes is that the petitioner's ACR for the period from 07. 03. 87 to 24. 04. 87 contained adverse remarks. On being informed about the said adverse remarks, the petitioner made his representation, which was duly considered by the respondent No. 2. The competent authority, upon consideration of the petitioner's representation made against the adverse remarks, passed the following the order as contained in the order/letter No. PHQ/ s/acr/con/dt, dated 29. 11. 88 (Annexure-B to the writ petition).

\i have gone through the representation and other relevant papers. The representation is accepted partially and allow the adverse remarks on 5 (e) and (f) continue and expunge the remaining ones. They will be treated as average / satisfactory performance\
(Emphasis is supplied)

(6) It may be noted that against the adverse remarks in the ACR of the petitioner, which the respondent No. 2, as contained in Annexure-8, chose to retain, the petitioner did not challenge the same in any Court of law and the remarks, so made, have, thus, attained finality.

(7) Because of the adverse entry, originally, made in the petitioners ACR, he was not considered fit for promotion in the year 1988 and even on review by the DPC made in 1991, the petitioner was not found, in the face of the remarks retained made by the respondent No. 2 and quoted above, fit for promotion. The petitioner was, thus, not promoted on account of adverse entry in his ACR.

(8) Similarly, in the ACR of the petitioner for the period commencing from 01. 04. 88 and ending on 31. 03. 89, the Reporting Officer made adverse remarks including the remarks that the ' honesty and integrity of the petitioner were 'doubtful'. The adverse remarks, so made, were duly communicated to the petitioner and representation made by the petitioner against these remarks too were, indeed, considered by the respondent No. 2 and upon consideration thereof, the petitioner was informed vide letter/order No. PHQ/acr/con/dt, dated 11. 11. 92 (Annexure-E to the writ petition) that as far as the adverse entry on the question of his ' honesty and integrity' was concerned, the same were maintained, but other adverse remarks were modified. This apart. Annexure-A e shows that the petitioner was advised to take interest and show some improvement in his performance and he was rated as an average officer. These remarks have also. I find attained finality. In the face of the adverse remarks in the service records of the petitioner, th

e DPC was, in my firm view, wholly justified, even on 15. 04. 93. in declining to promote the petitioner on account of his unsatisfactory service records.

(9) What, thus, crystallizes from the above discussion is that the petitioner's service records are not at all satisfactory and on the basis of such service records, question of promoting the petitioner to the rank of Inspector of Police, in a department as important as the department of police is, cannot be said to be wrong, illegal and/or unjust. Situated thus, I see no reason to interfere with the repeated denial of the promotion to the petitioner.

(10) Considering, therefore, the matter in its entirety, the present writ petition is, to my mind, wholly without merit and deserves dismissal.

(11) The writ petition is accordingly dismissed as being wholly devoid of merit. No order as to costs.