

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2005

CORAM

THE HON`BLE MR.JUSTICE P.K.MISRA

WRIT PETITION NO. 30384 of 2004
& WPMP No.36846 of 2004

Haribansh Singh

..Petitioner

vs.

1. Union of India, rep.by Secretary,
Ministry of Home Affairs,
North Block, New Delhi.

2. Director General,
Directorate General CRPF
Lodhi Road, New Delhi 110 003.

3. Arun Chibber
DIG (LEGAL)
Directorate General CRPF,
CGO Complex,
Lodhi Road, New Delhi 110 003.

..Respondents

Writ Petition filed under Article 226 of Constitution of India praying this court to issue a writ of mandamus, directing the 2nd respondent to empanel the petitioner to the post of Inspector General of Police, CRPF by fixing the seniority of the petitioner in accordance with seniority determined by the 2nd respondent vide Lr.No.G.III-1/83-Estt.I, dated 04.03.83 and consequently forbear the respondents from promoting any person to the post of Inspector General of Police in the CRPF before promoting the petitioner to the said post.

For petitioner : Mrs.Nalini Chidambaram, Sr.Counsel
for M/s.Glayds Daniel
For respondents 1 & 2 : Mr.V.T.Gopalan, Addl.Solicitor
General of India
for Mr.S.Mani Kumar, SCGSC
For respondent 3 : Mr.V.Parthiban

ORDER

Heard Mrs.Nalini Chidambaran, learned Senior Counsel appearing for the petitioner, Mr.V.T.Gopalan, learned Additional Solicitor General of India, appearing for the first and second respondents, and Mr.V.Parthiban, learned counsel appearing for third respondent.

2. The prayer in this Writ Petition is for issuing a direction to the 2nd respondent, namely, Directorate General of CRPF to empanel the petitioner for the post of Inspector General of Police, CRPF by fixing the seniority of the petitioner in accordance with the seniority determined by the 2nd respondent by Lr.No.G.III-1/83-Estt.I, dated 04.03.83 and consequently forbear the respondents from promoting any person to the post of Inspector General of Police in the CRPF before promoting the petitioner to the said post.

3. The contention of the petitioner is to the effect that as per the letter No.Lr.No.G.III-1/83-Estt.I, dated 04.03.83, the petitioner was shown at Serial No.256 of the seniority list, whereas the present respondent No.3 was shown at Sl.No.283. In the mean time, as per the Supreme Court decision, there was a direction that the past service of ex-Army personnel should be considered for the seniority. It is submitted that even though the respondent No.3 was not an ex-Army personnel, while purporting to implement the direction of the Supreme Court and revising the seniority list, on 24.09.1986, the petitioner was shown at Serial No.473, whereas, the respondent No.3 was shown at Sl.No.461, without any justification. It is contended by the petitioner that inspite of several representations, the wrong seniority fixed to the petitioner and the third respondent was maintained and consequently, the petitioner's case has been ignored.

4. It is apparent from the counter affidavit filed on behalf of the respondents 1 and 2 as well as the respondent No.3 that a seniority list was issued in the year 1986, where respondent No.3 was shown as senior than the petitioner and thereafter in 1996 also in the seniority list, the petitioner was shown at Sl.No.405, whereas, the respondent No.3 was shown at Sl.No.396. It is highlighted in the counter affidavit that inspite of the fact that the respondent No.3 was shown senior to the petitioner, right from 1986, no effective steps were ever taken by the petitioner to seek for any correction. On the other hand, on the basis of said seniority list, which is continuing since 1986 and reiterated in 1996, the respondent No.3 has been promoted ahead of the petitioner in several promotional post such as that of Deputy Commandant, Assistant Commandant, Additional Deputy Inspector General of Police and Deputy Inspector General of Police. It is not appropriate for the petitioner to pray for any change in the seniority list, after a long lapse of time.

5. Law is well settled that in matters relating to seniority, unless remedial steps are taken by the persons aggrieved without any laches, the Court should not tinker with the seniority list and should not unsettle the settled things. It is, of course, true that in the present case, several representations had been made, particularly after 1996. However, mere making of representations cannot come to the rescue of the petitioner and instead of waiting perpetually for consideration of representation, the petitioner should have taken appropriate legal proceedings, without any further delay. In such view of the matter, the prayer in the writ petition to the effect that the petitioner should be empanelled on the basis of 1983 seniority list, cannot be accepted and the Writ Petition is bound to be dismissed on that score.

6. In course of hearing, the learned counsel for the petitioner submitted that the petitioner is to retire within six months and merely because certain errors were committed, the petitioner should not suffer and if necessary, an ex-cad, i.e. supernumerary post, may be created. I do not express any opinion on this aspect, leaving it open to the petitioner to make any representation to the respondents 1 and 2. If any such representation is made, such representation may be considered sympathetically by them. Subject to the aforesaid observation, the Writ Petition is dismissed. No costs. The connected WPMP is closed.

ajr.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. Director General, Directorate General CRPF
Lodhi Road, New Delhi 110 003.

+ 1 cc to Mrs.Glady's Daniel, Advocate SR No.43595
+ 1 cc to Mr.S.Manikumar (SCGSC) SR No.43676
+ 1 cc to M/s. Paul and Paul SR No.43709

SGL(CO)
SR/10.11.2005

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