

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

LPASW No. 54/2003, CMA No. 98/2003

Date of order: 21.04.2015

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1. Union of India through Secretary of Defence, Government of India, Civil Secretariat, New Delhi.
2. Corps Commander 16 Corps C/O 56 APO
3. Div. Commander 10th Division, c/o 56 APO.
4. Commanding Officer 510 ASC BN c/o 56 APO.

VS.

Padam Singh Gulia, aged 40 years son of Sh. Giyani Ram Gulia, resident of Ladpor, District Jhajjar, Haryana presently posted as Major 520 ASC BN, c/o 56 APO

Coram:

Hon'ble Mr. Justice N. Paul Vasanthakumar, Chief Justice
Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge

Appearing counsel:

For the appellant(s)	:	Mr.R.S.Jamwal CGSC.
For the respondent(s)	:	Mr. Anil Gupta Advocate.

i/	Whether to be reported in Press/Media	:	Yes/No
ii/	Whether to be reported in Digest/Journal	:	Yes/No

N. Paul Vasanthakumar-CJ:

1. This appeal is filed against the judgment and order dated 07.02.2003 made in SWP No. 1084/2002 wherein the learned Single Judge allowed the writ petition, directing the appellants to allow the petitioner to join on the post of Acting Lt. Col. at 527 ASC c/o 56 APO forthwith with a further direction to the appellants to pay to the petitioner pay and allowances of the rank of acting Lt. Col. w.e.f 15.04.2002 within a period of three months from the date of receipt of copy of the order failing which the petitioner was held entitled to interest @ 12% on the arrears from the date of expiry of three months till the actual payment was to be made.

2. Appeal was filed contending that the promotion was given to the petitioner without noticing the punishment of reprimand awarded to the petitioner vide order dated 05.03.2002. It was further stated in the appeal that in the approval for promotion letter dated 11.03.2002 as well as in the order of promotion dated 22.03.2002, it was specifically mentioned that the promotion will be subject to continued satisfactory performance.

3. During the pendency of the appeal, this Court was informed that a similar matter was decided by Hon'ble the Supreme Court. The Judgment dated 06.02.2007 passed by Hon'ble the Supreme Court in Civil Appeal No.2631/2005 was taken on record by this Court on 12.03.2008.

4. Applying the aforesaid judgment of Hon'ble the Supreme Court to the facts of the present case and keeping in view the fact that the punishment of reprimand was passed on 05.03.2002 before the promotion of the petitioner which was made on 22.03.2002, the learned Single Judge was not right in allowing the writ petition. Therefore, appeal is allowed by setting aside the judgment dated 07.02.2003 passed by learned Single Judge.

(Dhiraj Singh Thakur)
Judge

(N. Paul Vasanthakumar)
Chief Justice

Jammu,
21.04.2015
Sanjeev