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WP-18068-2017

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 2<sup>nd</sup> OF APRIL, 2026WRIT PETITION No. 18068 of 2017*SHALIGRAM DUBEY**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri H.K. Upadhyay, Advocate for the petitioner.*

*Shri Hitendra Singh - Govt. Advocate for State.*

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ORDER

The present writ petition has been filed under Article 226 of the Constitution of India, whereby the petitioner seeks the following reliefs:

*"(i) to call the relevant records for kind perusal of this Hon'ble court.*

*(ii) to hold that the petitioner is entitled for the out of turn promotion as been granted to the similarly placed person in 2002.*

*(iii) to hold that the petitioner is entitled for grant of out of turn promotion effective form 2002.*

*(iv) any other order or direction deemed fit just and proper in the facts and circumstances of the case."*

2. The facts, as set out in the petition, reveal that the petitioner was serving as a Driver/Constable in the Special Armed Force (SAF). The petitioner was posted at Balaghat in the year 2001 and was assigned the duties of Gunman to respondent No.4, the then Additional Superintendent of Police, Balaghat. On 06-10-2002, a truck carrying Dynamite, loaded with 9 tons thereof, was looted. The said truck was en route from Jhansi to



Malajkhand Copper Mines. The aforesaid criminal act was attributed to Naxalites. The driver of the truck was also abducted by the Naxalites and was subsequently released on 10-10-2002. Thereafter, the said driver approached the Police Station, Bharveli and reported the incident. On the same date i.e. 10-10-2002, the police party reached the place of occurrence and commenced a search operation for the dump of Dynamite, and consequently, the aforesaid Dynamite was recovered from the location.

3. The counsel for the petitioner contends that out of the team which carried out the operation for recovery of the explosives, 19 persons were extended the benefit of out-of-turn promotion; however, the present petitioner, despite being a member of the said team, was denied such benefit. It is further submitted that the petitioner had earlier approached this Court by filing a writ petition, wherein this Court directed the respondents to consider and decide the petitioner's representation; however, the said representation has been rejected by the impugned order.

4. The Learned counsel for the petitioner contends that the respondents, in the present case, have failed to take into consideration the specific return filed by respondent No.4. It is contended that the petitioner was deputed as a Gunman to respondent No.4, who was the key person leading the party on the date of the operation. Respondent No.4 has categorically stated in his return that the petitioner was very much part of the team and had actively participated in the operation and, therefore, was entitled to out-of-turn promotion. However, the petitioner's representation has been rejected on the ground that there is no Rojnamcha entry on record



to substantiate that the petitioner was deputed to carry out the said operation. It has further been observed that there is no entry reflecting the name of the petitioner, and even in the report forwarded to the Police Headquarters, the name of the present petitioner does not find mention.

5. The counsel for the petitioner contends that the findings recorded in paragraph No.3 of the impugned order are contrary to the contents of paragraph No.4 of the return/reply filed by respondent No.4. It is submitted that respondent No.4, in paragraph No.4 of his return, in unequivocal terms, has categorically stated that the petitioner was a member of his team on the date of the incident and had participated in the operation. It is further contended that, in view of the aforesaid, there was no requirement for the petitioner's name to be recorded in the Rojnamcha, particularly when the petitioner was otherwise discharging his duties as Gunman to respondent No.4. The counsel submits that, in such circumstances, the petitioner is entitled to the benefit of out-of-turn promotion. In support of his submissions, reliance has been placed on the decisions of this Court in the cases of *Suresh Pal Singh vs. State of M.P. and others (W.A. No.160/2011, dt.09-12-2011)*; *(W.P. No.8175/2011, dt.16-04-2012)*; and *Ramlakhan Sharma vs. State of M.P. and others (W.P. No.2850/2012, dt.04-09-2019)*.

6. *Per contra*, the counsel for the respondents/State submits that the instant writ petition is liable to be dismissed. It is contended that a detailed affidavit has been filed in compliance with the interlocutory order dated 15-01-2026 passed by this Court. The affidavit of Shri Karandeep Singh, presently posted as Sub-Divisional Officer (Police), Baihar, District



Balaghat, clearly indicates that the petitioner was not a member of the team. It is further submitted on behalf of the State that a total of 80 police personnel had participated in the operation, out of which only 17 were found eligible for out-of-turn promotion on account of their extraordinary act of bravery. As many as 39 police personnel were granted a cash reward of Rs.1000/- each, whereas the remaining 24 personnel were neither granted any reward nor promotion, as their contribution was found to be routine in nature and not extraordinary. It is thus contended that the contents of paragraph No.8 of the affidavit make it abundantly clear that the petitioner was not entitled to out-of-turn promotion and, therefore, cannot raise any grievance with regard to the alleged discrimination.

7. No other point has been pressed or argued by the learned counsel appearing for the parties.

8. Having considered the submissions advanced by the counsel for the parties, and upon perusal of the record, it reflects that the petitioner, while filing the present writ petition, has stated that he, along with respondent No.4, was a member of the first police party and, while exhibiting an act of bravery at the risk of their lives, recovered a huge quantity of Dynamite which had been dumped by the Naxalites after looting the same. The relevant paragraphs of the writ petition, i.e., paragraph Nos.5.5 to 5.10, are reproduced hereunder:

*"5.5. That the driver of this truck was also kidnapped by the Naxalite and on 10/10/2002 the driver was released by the Naxalite and there after the driver come to the Police Station Bharvelly and reported the incidence. That he was presented before the commanding officer and Superintendent of police. That*



*on the same day i.e. 10/10/2002 the police party reached the scene of crime. That in this party the petitioner also went in capacity of gunman to the respondent No.4 the then Additional S.P. and only four other persons.*

*5.6. That this was the first police party which dared to reach the spot of crime along with the driver of the truck. That thereafter the petitioner and other police personals started searching for the dumps of the dynamite.*

*5.7. That the petitioner and other police personal found the dumps of the dynamite only after risking their lives. That this party along with others police personals camped at the vicinity of the spot from where the truck load of dynamite was looted. That around 150 personals were camped there on the spot of loot for the purpose of recovery and transport of the looted dynamite.*

*5.8. That the respondent No. 4 along with the five other police personal including petitioner were the first police personals who reached the spot and inspected for the possible ambush in the form of dynamite land mines and actual presence of the Naxalite.*

*5.9. That the petitioner and his team started searching the area for the landmines and also for the looted boxes of the dynamite. That the petitioner and his team were very successful in finding the same. That thereafter other police personal arrived and helped in finding. That about 8 ton of dynamite was recovered.*

*5.10. That at the time of recovery of the looted dynamite the Additional S.P. promised the petitioner that he will be adequately awarded for the bravery shown by the petitioner along with other police personal in the team."*

9. A perusal of the pleadings set forth in the writ petition reveals that the petitioner has claimed that he was among the first police personnel to reach the spot and carried out inspection with regard to the possibility of ambush in the form of Dynamite landmines, as well as the actual presence of Naxalites. It is further stated that the petitioner, along with his team, initiated a search of the area for the landmines and the looted boxes of Dynamite. The



petitioner and his team were successful in locating the same, whereafter the remaining police personnel reached the spot and assisted in the recovery operation, resulting in the recovery of 8 tons of explosives.

10. The aforesaid pleadings in the petition, when juxtaposed with the contents of paragraph No.4 of the return filed by respondent No.4, reveal that respondent No.4 has stated that he proceeded to the spot along with his team for necessary action, and as per paragraph No.4 of the return, the present petitioner was a member of the said team. However, apart from the aforesaid averments made in paragraph No.4 of the return, there is no mention of any specific act of bravery attributed to the present petitioner. There are no assertions in the entire return/affidavit of respondent No.4 to the effect that the petitioner had risked his life while searching for the dumped Dynamite. No extraordinary act of bravery has been attributed to the petitioner in the entire return filed by respondent No.4. On the contrary, it appears that in the pleadings, the petitioner has referred to the entire team as his team, whereas respondent No.4, in his return, has referred to the same as his team. At this juncture, it is apt to refer to paragraph No.4 of the return/reply filed by respondent No.4, which is reproduced hereunder:

*"4. The answering respondent No. 4 submits that a query was raised by the Hon'ble High Court vide order dated 20/11/2019, whereby the State Government was directed to seek instructions as to whether before filing of reply, any communication was received from the respondent No. 4 with respect to the presence of the petitioner at the scene of crime. Considering the same, the answering respondent No. 4 is filing the instant affidavit to submit that, on the date of the incident i.e. 06/10/2002, Crime No. 139/02 was registered. Pursuant to the same, the answering respondent No. 4 along with*



*his team took the necessary action with respect to the abovementioned crime number. The answering respondent No. 4 submits that the petitioner Constable Shaligram Dubey was a part of his team on the date of the incident. That the answering respondent No. 4 for his exceptional work, was recommended by the Superintendent of Police for Gallantry Award and Revolver. The case with respect to the grant of the gallantry award is pending at the Central Government level, however the answering respondent No. 4 has been rewarded with a 0.22 caliber revolver for the exceptional work. Thus in compliance of the order dated 20/11/2019, the answering respondent No. 4 is filing the instant affidavit making the submissions hereinabove."*

11. A perusal of the aforesaid clearly reveals that, for claiming the benefit of out-of-turn promotion, an extraordinary act of bravery is required to be demonstrated. In the present case, the presence of the petitioner is not substantiated by any documentary evidence, except for a one-line statement made in paragraph No.4 of the return filed by respondent No.4. Undisputedly, there is no document on record to establish the presence of the petitioner at the time of conduct of the operation.

12. In matters pertaining to out-of-turn promotion under Regulation 70-A of the Police Regulations, no claim of discrimination can be invoked, nor can such benefit be claimed as a matter of right.

13. From a perusal of the record, it is evident that the petitioner has alleged discrimination. So far as the question whether a ground of discrimination can be raised in the matters pertaining to out-of-turn promotion is concerned, it is apposite to refer to the decision of the Apex Court rendered in the case of *State of M.P. & anr. vs. Sanjay Shukla*, [Arising from SLP(C) No.1040/2021], wherein, in the operative paragraph, it



has been held as under:

*"Now, so far as the parity claimed by the respondent which came to be accepted by the learned Single Judge is concerned, there cannot be any parity so far as claiming out-of-turn promotion is concerned. The facts differ from person to person and officer to officer and Act to Act. Therefore, in case of out-of-turn promotion, there cannot be any parity claimed."*

14. This Court, in the case of *Balram Singh Thakur vs. The State of Madhya Pradesh*, 2016 SCC OnLine MP 745, has held in paragraph No.4 as under:

*"4. Having perused the aforesaid report, it is apparent that the present case is not one where all the members of the police team have been granted out of turn promotion while the petitioner has been left out as alleged by the petitioner. The report indicates that out of 30 strong police personnel, only three were found to have committed acts of exemplary courage and accordingly their names were recommended for out of turn promotion. The report does not indicate that the petitioner had committed any such act and therefore, his name has not been recommended for out of turn promotion."*

15. The aforesaid decisions clearly indicate that an extraordinary act of bravery on the part of a member of the disciplined force is a crucial factor for consideration of his case for out-of-turn promotion. Such an act of bravery constitutes one of the primary considerations for grant of the said benefit. Though the petitioner has made self-claimed assertions regarding his act of bravery, respondent No.4, while supporting the presence of the petitioner on the date of conduct of the operation, has not corroborated any such alleged act of bravery as pleaded in various paragraphs of the writ petition.

16. In view of the prevailing factual matrix and the settled position of



law, and in the absence of any material on record to substantiate that the petitioner had demonstrated any extraordinary act of bravery or gallantry, no case is made out for grant of out-of-turn promotion. Accordingly, the respondents have not committed any error in rejecting the representation of the petitioner.

17. *Ex-consequenti*, the writ petition, being devoid of substance, deserves to be and is hereby dismissed, without any order as to costs.

(MANINDER S. BHATTI)  
JUDGE