

(2011) 03 GAU CK 0061

Gauhati High Court

Case No: Writ Petition (C) No. 347 of 2002

Sri Prabir Chandra Dey

APPELLANT

Vs

The State of Tripura and Sri
Sekhar Deb Sarkar, A.S.I of Police
(UB)

RESPONDENT

Date of Decision: March 14, 2011

Citation: (2011) 3 GLR 867

Hon'ble Judges: Amitava Roy, J

Bench: Single Bench

Advocate: A.L. Saha, for the Appellant; A. Ghosh, Government Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Amitava Roy, J.

A writ of mandamus and/or an appropriate direction has been sought for, requiring the Respondents herein to recalculate the marks allot able to the Petitioner and for his promotion on the basis thereof to the rank of Assistant Sub-Inspector of Police (UB) in the Police Department of the State.

2. I have heard Mr. A L Saha, learned Counsel for the Petitioner and Mr. A Ghosh, learned Counsel for the official Respondents. The Respondent Nos. 3 and 4, though, duly served with the notice of the instant proceeding have not entered appearance or arranged for their representation.

3. The Petitioner has pleaded that he had been appointed as a Constable, in the Police Department of the State on 02.12.1977 where after, in course of his devoted service, he had earned 31 major and 1 minor rewards up to 1988-89. During this period, he was awarded as well 2 minor censures. The Director General of Police vide memorandum No. 35618-42/F.35/IGP/CON/86 dated 18.06.1987 formulated the following norms for assessment of candidates by the Departmental Promotion

Committee for promotion to the post of Assistant Sub-Inspector of Police. The mode of assessment in the examination was outlined as hereunder.

Composition of Examination:

6. Part-I of the examination shall comprise practical and Viva-voce tests and evaluation of service records as under.

Sr. No.	Item of Examination	Min. Marks Assigned.
1.	Elementary drill (turn-out, general smartness, proficiency in handling of rifle/canes/lathies/anti-riot equipments etc).	10
2.	Viva-voce test to assess general knowledge, mental alertness, aptitude capacity for appreciation of situation etc.	20
3.	Record of service	15
4.	Length of Service - ♦ mark should be allotted for each year from third completed year on works up to maximum of.	05

7. Service record shall be assessed as under:

Out of 15 marks each candidate will first be given 6 marks to which bonus shall be added and/penalties deducted as follows, subject to the condition that total score under this item does not exceed 15 or falls below zero.

BONUS:

- i) For each major reward - 1 mark.
- ii) For each minor reward - 1/2 mark.

PENALTIES:

- i) For each major punishment - 1 mark.
- ii) For each minor punishment - 1/2 mark".

4. The departmental examination was comprised of two segments, Part-I and Part-II and candidates securing 60% marks or above in Part-I were only to be eligible to participate in Part - II thereof consisting of written paper of 50 marks for 3 hours

duration of Law and Procedure, as per the syllabus provided. A candidate was to secure 50% marks as well to pass the same. In the departmental examination, that was held in the year 1988-1989, the Petitioner participated therein and scored as follows in the two parts:

Part -I - 33

Part - II - 35

Total 58

As pass marks in the aggregate in addition to the above requisites was 60, he thus declared unsuccessful. Resultantly, he was denied promotion. Contending that his marks have not been correctly computed in terms of the aforementioned norms on account of "record of service" and "length of service" as enumerated in Part-I, the Petitioner unsuccessfully pleaded with the concerned authorities and then has turned to this Court for redress. His grievance, as well, is that incumbents in service junior to him, though have been preferred for such promotion, he has been unfairly denied the same. On the heads of "record of service" and "length of service", according to the Petitioner, he ought to have been awarded marks as follows:

Record of service

(i) Bonus of 6 marks to each candidate,

(ii) For each major reward -1 mark,

(iii) For each minor reward - 1/2 mark,

(iv) For each major punishment -1 mark, (v) For each minor punishment -1/2 mark.

As the Petitioner till the relevant point of time, had received 31 major rewards and one minor reward, he was entitled in view of the above 31 and 1/2 marks on this count. For two minor punishments, 1 mark was to be deducted. In all, he was entitled to $6+31+1/2 = 37\frac{1}{2}$ bonus mark. On deduction of one mark for two minor punishments, his total tally would stand at $36\frac{1}{2}$. He was thus entitled to get the 15 marks against record of service.

Length of service

At the rate of 1/2 mark for each year of completed service after 3 years of service, having regard to the date of his appointment, he was entitled to 5 marks (1979-1980 to 1989-1990). According to the Petitioner, therefore, if marks as above, to which he was entitled could have been awarded to him, he would have passed the departmental examination for promotion to the higher rank of Assistant Sub-Inspector of Police.

5. The Respondents in their affidavit in substance have pleaded that the Petitioner having regard to the rewards secured by Deductions Bonus him under the head

"record of service" was awarded 15. But in view of the deduction of 1 mark for two minor punishments it stood reduced to 14. Further, he was entitled to @ 1/2 mark for 7 years of completed service from 21.12.1980 to 25.10.1988. The Respondents, therefore, endorsed the calculation made and dismissed the Petitioner's contentions to the contrary.

6. Mr. Saha, has argued that having regard to the pattern of marking for service record and length of service, the Petitioner was entitled to 15 marks in the former and 5 marks for the latter, as reckonable on the date of declaration of the results of the departmental examination on 30.01.1991. Mr. Ghosh, learned Counsel for the Respondents, to the contrary has maintained that the calculation perceived by the Petitioner is wholly unfounded and at this distant point of time, he having meanwhile retired from the service, no interference of this Court is warranted.

7. The arguments advanced by the learned Counsel for the parties have been considered. The norms as set out for the assessment of the candidates in the departmental examination and detailed in the writ petition are not in dispute. The mark sheet of the Petitioner, as annexed to the writ petition disclose that he had scored 33 in Part-I and 25 in Part-II, and was thus showed to have failed in the aggregate, as he could not secure the minimum pass mark of 60.

8. Though the manner in which his record of service has been evaluated by the Respondents cannot be dubbed as irrational or illogical, in the opinion of this Court, even if, the computation made by him in this regard is accepted, he still falls short of the pass mark of 60 in the aggregate. The Petitioner's arithmetic would increase his tally in Part-I to 15. However, as essentially the length of the service for calculating his completed years therein for the purpose of weight age has to be essentially counted as on the date on which DPC was held, he would be entitled to 3 1/2 marks on that count. The Petitioner's plea that for this purpose, his length of service has to be taken as on the date of declaration of result, lacks persuasion. The candidates having been assessed for their suitability for promotion on a given date by the DPC, their evaluation on the norms prescribed assuredly has to be as applicable on the basis of their service records as on that date.

9. In view of the above, the challenge to the computation of marks of the Petitioner cannot be sustained.

10. The petition, lacks in substance and is dismissed. No costs.