

**(2014) 05 JH CK 0007**

**Jharkhand High Court**

**Case No:** W.P. (S) No. 3499 of 2013

Mahavir Kharwar

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision:** May 5, 2014

**Citation:** (2014) 3 JLJR 59

**Hon'ble Judges:** Aparesh Kumar Singh, J

**Bench:** Single Bench

**Advocate:** Anjani Kr. Verma, Advocate for the Appellant

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### **Judgement**

@JUDGMENTTAG-ORDER

Aparesh Kumar Singh, J.

I.A. No. 8941 of 2013

1. Heard learned counsel for the parties. The petitioner is aggrieved by non-promotion to the post of Dy. S.P. though it is stated that his juniors have been granted such promotion.
2. Admittedly, the petitioner was imposed with a punishment of withholding of two increments without cumulative effects, which is said to amount to three black marks vide punishment order dated 23.2.2011 contained in Memo No. 223, Annexure-5 issued by the D.I.G. of Police, Bokaro. The said punishment order relates to a departmental proceeding No. 53 of 2008 initiated against the petitioner. The petitioner has submitted that the respondents apparently have not considered his case for promotion on account of punishment order which appeared to have been applied prospectively to the petitioner. It is further submitted that recommendations have been made for promotion of the petitioner to the post of Dy.S.P. vide Memo No. 2116 dated 12.12.2012, Annexure-4, by the Superintendent of Police, Dumka. However, the petitioner contends that he being in the rank of Inspector of Police, the punishment would have to be reckoned to operate from the

date of occurrence/charge-sheet i.e. 29.9.2008 in view of the clarification issued by the office of Director General of Police, Jharkhand as contained in Memo No. 1989 dated 22.8.2013. It is submitted that the office of Director General of Police, Jharkhand has clarified the import of the circular dated 18.2.2012 in memo No. 1698 issued by the DOPT, Government of Jharkhand. It is submitted that a similar issue was considered by this Court and taking into account the Memo dated 22.8.2013 in the case of the said petitioner, who was also working as a Inspector of Police, the respondents have been directed to reconsider the matter. The said judgment has been rendered in the case of Naresh Kumar Sahay Vs. The State of Jharkhand and Others, . It is submitted that a similar view has been taken by the learned learned Division Bench of this Court in respect of memo dated 22.8.2013 in the case of Sada Shiv Jha Vs. State of Jharkhand and Others, . Therefore, the respondents should be directed to reconsider the case of the petitioner for promotion to the post of Dy.S.P.

3. Learned counsel for the respondent-State fairly submits that the facts of the petitioner's case appear to be covered by the principle laid down in the judgments rendered in the case of Naresh Kumar Sahay (supra) by the learned Single Judge and in the case of Sada Shiv Jha (supra) by the learned Division Bench of this Court.

4. Upon hearing the learned counsel for the parties, in such circumstances when the memo dated 22.8.2013 issued by the Director General of Police, Jharkhand is said to govern the case of the petitioner, who is in the rank of Inspector of Police under the provisions of Rule 824-A(e), the punishment imposed upon the petitioner through order dated 23.2.2011, Annexure-5 appears to operate from the date of occurrence/issuance of charge sheet, which is 29.9.2008. The matter of promotion of the petitioner to the post of Dy. S.P. therefore, requires to be reconsidered by the concerned respondents.

5. Accordingly, it would be appropriate to allow the petitioner to approach the respondent No. 2, the Director General of Police, Jharkhand for reconsideration of his case for the post of Dy. S.P. in the light of the aforesaid facts, documents and the circulars issued by the said office dated 22.8.2013. The Court is not lying down any time line consciously for convening a departmental promotion committee meeting. If the petitioner is able to make out a case for reconsideration, his case be considered by the departmental promotion committee, so convened by the respondents within a reasonable time.

6. Accordingly, the writ petition is disposed of in the aforesaid manner. I.A. No. 8941 of 2013 stands disposed of.