

ALL INDIA BACKWARD CLASSES AND MINORITIES
WELFARE ASSOCIATION & ANR.

v.

UNION OF INDIA & ORS.

APRIL 19, 1988

[K.N. SINGH AND M.H. KANIA, JJ.]

*Delhi Higher Judicial Service Rules: Additional District Judge—
Refusal of Selection grade—Justiciability of.*

*Constitution of India, 1950: Articles 233 and 235—Judicial
Officer—Promotion to higher grade/post—Made on criteria of merit—
Junior Officer bound to supersede his senior—Integrity of judicial
officer—Great asset to administration of justice—To be given due
consideration.*

The 2nd petitioner, a member of the Delhi Higher Judicial Service and working as an Additional District Judge in a writ petition to this Court, contended that he was directly recruited to service as a Scheduled Castes candidate and that the High Court had acted in an unreasonable manner in refusing to grant selection grade to him on more than one occasion.

Disposing of the Writ Petition,

HELD: 1. Where promotion to higher grade or post is made on the criteria of merit, many a time a junior officer is bound to supersede his senior. In the process of assessment of comparative merit, supersession of a senior officer may result. This cannot be helped. [614G-H]

In the instant case, the petitioner was considered on merit along with others, and as the High Court found officers junior to him suitable for grant of selection grade the petitioner could not be selected. This Court finds no illegality in the High Court's order. [615A]

2. Integrity of a judicial officer is a great asset to administration of justice. It must be given due weight. [615C]

3. The petitioner in the instant case, comes from a weaker section of the society and he has been found to be an honest officer. This fact needs consideration. The High Court should consider the petitioner's

- A case sympathetically for the grant of selection grade at the next selection. [615D]

ORIGINAL JURISDICTION: Writ Petition No. 5858 of 1983.

(Under Article 32 of the Constitution of India)

B G.L. Sanghi, M.T. Siddiqi and Irfan Ahmed for the Petitioners.

Anil Dev Singh, C. Ramesh, K. Swami and Miss A. Subhashini for the Respondents.

- C The following Order of the Court was delivered:

ORDER

- The Petitioner is a member of Delhi Higher Judicial Service, at present working as Additional district Judge. The petitioner was directly recruited to service as a Scheduled Castes candidate. He has approached this Court by means of this petition under Article 32 of the Constitution with a grievance that the High Court of Delhi has acted in an unreasonable manner in refusing to grant selection grade to him on more than one occasion. A number of other allied questions were raised during the course of arguments but ultimately on behalf of the petitioner only the grievance relating to the refusal of selection grade was pressed.

- Having heard learned counsel for the parties at a length and having perused the records and also the annual confidential reports awarded to the petitioner and other papers produced on behalf of the High Court, we find it difficult to hold that the High Court has acted unreasonably in refusing to grant selection grade to the petitioner. Admittedly grant of selection grade was considered on the criteria of merit to the members of Delhi Higher Judicial Service. Whenever a post in the selection grade was available the High Court considered the petitioner along with other officers but on a comparative assessment of merit of eligible officers, it granted selection grade to the officers who were junior to the petitioner and in that process the petitioner stood superseded. Where promotion to higher grade or post is made on the criteria of merit, many a time junior officer is bound to supersede his senior in the process of assessment of comparative merit, which may result in supersession of a senior officer. This cannot be helped since the petitioner's case was considered on merit along with others. and as

the High Court found officers junior to the petitioner suitable for grant of selection grade the petitioner could not be selected. We find no illegality in the High Court's orders.

However, we would like to refer one aspect which needs consideration. On a perusal of the confidential character roll entries and other papers produced before us on behalf of the High Court, we find that since March 1979 to July 1980 the monthly statement of work done by the petitioner as assessed by the High Court on the basis of the report of the District Judge shows that the High Court rated his work and conduct as "good" and for the years 1982-83, 1983-84, 1984-85, 1985-86 and 1986-87 the petitioner has been awarded 'B' grading. No doubt he has not earned 'A' grading but the confidential reports show that he is an honest officer. Integrity of a judicial officer is a great asset to administration of justice, it must be given due weight. The petitioner comes from a weaker section of the society and he has been found to be an honest officer, this fact needs consideration. In our opinion the High Court should consider the petitioner's case sympathetically for the grant of selection grade in the light of our observations at the next selection.

Writ petition is disposed of accordingly, there will be no order as to costs.

N.V.K.

Petition disposed of.