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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ CONT.CAS(C) 198/2020 & CM APPL. 24855/2020, CM APPL.
5417/2021, CM APPL. 2369/2023, CM APPL. 5299/2023

PRAKASH KUMAR DIXIT Petitioner

Through: Mr. Sanjoy Ghose, Sr. Advocate with
Mr. Anand Shankar Jha, and Mr.
Abhilekh Tiwari, Advocates

versus

AJAY KUMAR BHALLA & ORS Respondent

Through: Mr. Sanjay Jain, ASG with Mr.
Harish Vaidyanathan Shankar, CGSC
with Mr. Srish Kumar Mishra and Mr.
Sagar Mehlawat, Advocates

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Reserved on: 28th March, 2023Date of Decision: 02nd June, 2023**CORAM:****HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****J U D G M E N T****MANMEET PRITAM SINGH ARORA, J:**

1. This contempt petition has been filed by the Petitioner feeling aggrieved by the wilful non-compliance of the unequivocal directions issued by a Division Bench of this Court *vide* judgment dated 24.12.2019 passed in W.P.(C) No. 1525/2019. The operative portion of the said judgment dated 24.12.2019 reads as under:

34. For all of the aforementioned reasons, the order dated 16th October, 2018, passed by the DIG (CR & VIG) in the Directorate General, CRPF, imposing the penalty of removal from service on the Petitioner, is hereby set aside. The minor penalty as decided by the DA viz., "reduction to a lower stage in the scale of pay by one stage for a period not exceeding 3 years, without cumulative effect and adversely affecting pension" will be the penalty in the Petitioner's case.



35. Consequently, the Petitioner is directed to be forthwith reinstated in service, with all consequential benefits, but without any back wages. The date of reinstatement will relate back to the date of his having been originally removed from service i.e. 10th July 1995, for the purposes of pay fixation, seniority and all other consequential benefits including promotions. The consequential orders by way of implementation of this judgment be issued not later than 8 weeks from today.

(Emphasis Supplied)

2. In the said writ petition, the Petitioner herein had sought quashing of an order dated 16.10.2018 passed by the DIG (CR & Vig), Directorate General, Central Reserve Police Force ('CRPF'), whereby the penalty of "removal from service" was imposed on the Petitioner with immediate effect.

3. The Division Bench after considering the facts held that a serious error had been committed by Respondent(s) as regards the manner in which the Petitioner's case has been dealt with. The Division Bench set aside the said order dated 16.10.2018 and further directed that the Petitioner be "forthwith reinstated in service".

4. The Division Bench at paragraph 35 of its judgment dated 24.12.2019, categorically directed that the Petitioner's reinstatement shall relate back to the date on which he was originally removed from the service, i.e., 10.07.1995 with all consequential benefits, but without any back wages.

5. The Division Bench at paragraph 34 of its judgment dated 24.12.2019, after setting aside the penalty of "removal from service" further, directed that the minor penalty of "reduction to a lower stage in the scale of pay by one stage for a period not exceeding three (3) years, without cumulative effect and adversely affecting pension" ('minor penalty') as



decided by the Disciplinary Authority ('DA') will be the penalty in the Petitioner's case.

6. The Division Bench at paragraph 35, also issued unequivocal directions that for the purpose of pay fixation, seniority and all other consequential benefits including promotions, the date of his reinstatement will be 10.07.1995 (i.e., *the date on which the Petitioner was removed from service for the first time, after the charge sheet dated 06.09.1989 was issued to him*).

7. In view of the chequered history of this litigation, the Division Bench after setting aside the impugned order dated 16.10.2018, did not remit the matter back to the DA for passing fresh orders, instead as narrated hereinbefore, directed the Respondent(s) to issue the consequential orders in terms of the express directions issued by the Division Bench *vide* judgment dated 24.12.2019.

8. The Respondent(s) assailed the judgment of Division Bench dated 24.12.2019 by filing Civil Appeal No. 3970 of 2020 before the Supreme Court, which was disposed of on 07.12.2020 with a direction to the Respondent(s) to comply with the judgment dated 24.12.2019 of the Division Bench within a period of three (3) months.

Issue No. 1: Relevant date for imposition of the minor penalty determined by the Division Bench

9. The Respondent(s) thereafter issued the order of reinstatement on 08.03.2021 ('Reinstatement order'), however, at paragraph 35 (iv) of the said order, the minor penalty was imposed on the Petitioner w.e.f. 08.03.2021.



9.1 The Petitioner contended that the said Reinstatement order is contrary to the clear directions issued by the Division Bench, whereby the Respondent(s) were directed that the minor penalty would be imposed w.e.f. 10.07.1995.

9.2 The Petitioner contended that the Reinstatement order by imposing the minor penalty w.e.f. 08.03.2021, denudes the Petitioner of his rightful claim to promotion and monetary benefits, as directed by the Division Bench *vide* judgment dated 24.12.2019, which he would be entitled to, if the minor penalty is imposed w.e.f. 10.07.1995.

9.3 The Petitioner contends that the Union Home Minister on 03.03.2021 accorded his approval to the reinstatement of the Petitioner with a minor penalty from the original date of removal i.e., 10.07.1995; however, to the contrary, the Reinstatement order imposed the minor penalty w.e.f. 08.03.2021.

9.4 Pursuant to the Reinstatement order dated 08.03.2021, the Petitioner re-joined the CRPF on 16.03.2021, on the same post of 'Asstt. Commandant', which he has held since 15.08.1986.

9.5 It is the contention of the Petitioner that the Reinstatement order by imposing the minor penalty w.e.f. 08.03.2021 seeks to deprive the Petitioner of promotion to the rank of Additional Director General ('ADG')/Inspector General ('IG'), which is held by his immediate junior.

10. The Petitioner's apprehension with respect to denial of promotion and consequential benefits came true, as the Respondent(s) relying upon the fact that the minor penalty has been imposed on the Petitioner w.e.f. 08.03.2021, took a stand before this Court that the Petitioner herein is not entitled to be



considered for promotion during the currency of the punishment i.e., minor penalty for the next 3 years or his superannuation whichever is earlier.

10.1 The Respondent(s) have filed affidavits dated 02.11.2022 and 01.02.2023 to this effect in these proceedings.

10.2 In the affidavit dated 02.11.2022 the Respondent(s) took a stand that the judgment of the Division Bench imposing the minor penalty, has to necessarily be given effect prospectively from 08.03.2021 and therefore, it cannot be imposed retrospectively i.e., from 10.07.1995. The relevant paragraph of the affidavit dated 02.11.2022, noting the above said contention reads as under:

*“27. The Hon’ble Court vide its order dated 24.12.2019 has not specifically directed that the penalty is to be imposed upon the Petitioner retrospectively i.e from 10.07.1995 as claimed by the Petitioner. **Further, it is settled law that an order of penalty can never be retrospective and is contrary to the basic jurisprudence of service law.** The Apex court has already settled this in the case of *B Jeevaratnam v. State of Madras*, AIR 1966 SC 951. In the case of *Raj Kishore Sinha v. State of Bihar*, 2018 SCC OnLine Pat 825, the Patna High Court held it to be a settled law that an order of punishment can never be retrospective and it always has to be prospective. A similar view has also been given by the Hon’ble Apex Court in *State Bank of Patiala and Ors. Vs. Ram Niwas Bansal (Dead)* 2014 (2) PLJR 458 (SC).”*

(Emphasis Supplied)

10.3 The Respondent(s) also placed on record the order dated 14.09.2021 issued by the Directorate General, CRPF, wherein it was stated that the Review DPC dated 12.08.2021 to consider the case of Petitioner for promotion from ‘Asstt. Commandant’ to the rank of ‘Deputy Commandant’ shall not be acted upon (*recommendations kept in ‘sealed cover’*) in view of the fact that the Petitioner is under currency of punishment imposed on him and the said punishment will end on the date of his retirement on superannuation, i.e., on 31.03.2023.



Analysis and finding with respect to Issue No. 1

11. This petition was heard on 20.02.2023, 01.03.2023, 03.03.2023 and 07.03.2023.

11.1 The Respondent(s) thereafter filed a further affidavit dated 13.03.2023 amending their earlier stand taken *vide* Reinstatement order dated 08.03.2021, with respect to the date on which the minor penalty is to be imposed on the Petitioner. The Respondent(s) amended their stand and, as per the new stand, the Respondent(s) submitted that the minor penalty will be imposed w.e.f. 16.10.2018. To this effect an amendment dated 10.03.2023 was also carried out in the Reinstatement order at paragraph 35 (iv) to record that the date of imposition of penalty is w.e.f. 16.10.2018. The said amendment reads as under:

Para No.	For	Read
35 (iv)	The penalty of 'reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, or till the date of his superannuation i.e. 31.03.2023, whichever is earlier, without cumulative effect and without adversely affecting pension' is hereby imposed upon Shri Prakash Kumar Dixit, Ex-Assistant Commandant, the Petitioner from the date of issuance of this order.	The penalty of 'reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect and without adversely affecting pension' is hereby imposed upon Shri Prakash Kumar Dixit, Ex-Assistant Commandant, w.e.f 16.10.2018.



11.2 With the aforesaid amendment dated 10.03.2023 in the Reinstatement order, the Respondent(s) abandoned the plea raised in their affidavit dated 02.11.2022 to the effect that the date of imposing the minor penalty can never be retrospective and it has to be prospective.

12. There is no explanation offered by the Respondent(s) in the affidavit dated 13.03.2023 for imposing the minor penalty w.e.f. 16.10.2018 and not w.e.f. 10.07.1995, which is the date on which the penalty of “*removal from service*” was first imposed *vide* Presidential Order dated 10.07.1995.

13. It is a matter of record that the Petitioner has been prevented from serving in CRPF since 10.07.1995 on account of the successive Presidential order(s) dated 10.07.1995, 12.08.2015 and 16.10.2018, which were all in furtherance of the Memorandum of Charges dated 06.09.1989.

14. The Division Bench in its judgment dated 24.12.2019 has unequivocally directed that the reinstatement of the Petitioner has to take effect from 10.07.1995. The effect of the judgment of the Division Bench is to substitute the Presidential order dated 16.10.2018 and to set the clock back to 10.07.1995, so as to efface the smear of suspension and its consequences.

15. Therefore, the stand of the Respondent(s) that imposition of penalty has to be w.e.f. 16.10.2018 is expressly contrary to the directions issued by the Division Bench and contrary to the contents of the earlier Presidential Order(s) relied upon by the Respondent(s), which consistently sought to impose penalty on the Petitioner w.e.f., 10.07.1995 in one form or the other.

16. This Court is, therefore, of the opinion that the Petitioner is correct in his contention that the minor penalty has to be imposed upon the Petitioner,



in the facts of this case, as directed by the Division Bench w.e.f. original date of removal, i.e., 10.07.1995 and not w.e.f. 16.10.2018.

Issue No. 2: Petitioner's entitlement, if any, to promotion to higher ranks

17. The Petitioner in his written submissions dated 02.03.2023 has contended that after imposing minor penalty on the Petitioner from 10.07.1995 to 09.07.1998 (i.e. 3 years), a Review Departmental Promotion Committee ('DPC') would have to be held to notionally consider the Petitioner for all promotions as and when the Petitioner (*or his immediate junior*) would have become entitled for promotion as per his original seniority.

17.1 It is stated therein that these promotions will only be notional, as during this period the Petitioner was actually not in service. It is further stated that however, w.e.f. 24.12.2019 (i.e., the date of the judgment of Division Bench), the Petitioner would be entitled to the promotional post of IG, CRPF along with all the pay and emoluments.

17.2 It is stated by the Petitioner that in the alternative, even if the minor penalty is imposed w.e.f. 16.10.2018 to 15.10.2021, i.e. reduction to a lower stage for three (3) years, then too the Petitioner is entitled to be considered for all promotions till the rank of IG from 2021 till his date of retirement, i.e. 31.03.2023.

17.3 The Petitioner relies upon the contents of paragraph 35 (v) of the Reinstatement order, which states that the period between 10.07.1995 to 23.12.2021 shall be treated as a period 'On Duty' for the purposes of pay fixation, seniority including promotions, to contend that the Respondent(s) are acting in contravention of their position asserted in the said Reinstatement order.



18. In response, the Respondent(s) in their affidavit dated 13.03.2023 stated that in view of the amendment (dated 10.03.2023) in the Reinstatement order, imposing penalty w.e.f. 16.10.2018, there has been a material change in the records of the Petitioner and resultantly a fresh Review DPC is under process for considering the case of the Petitioner for promotion to the rank of Deputy Commandant with respect to DPC, for the vacancy year 1995-96, and all the subsequent DPC(s) till the vacancy year 2019, and also for the vacancy year 2022-23. The fresh Review DPC was held on 14.03.2023.

18.1 The Respondent(s) thereafter, placed on record the order dated 22.03.2023 passed by the Respondent(s) on the basis of the findings of Review DPC dated 14.03.2023. In this order the Respondent(s) held that the Petitioner is promoted to the rank of Deputy Commandant in Pay Level 11, on notional basis w.e.f., 17.10.2021, i.e., the date on which, his three (3) year penalty period concluded, and on actual basis with effect from the date on which he would assume charge.

18.2 With respect to promotion to next rank, it was stated in the said order dated 22.03.2023, that as per the Recruitment Rules, the Petitioner has not fulfilled the relevant eligibility criteria for promotion from the rank of Deputy Commandant to Second-in-Command.

18.3 It was stated in this order dated 22.03.2023 that since the Petitioner has not completed 05 years residency period in the rank of Deputy Commandant along with 02 years period of mandatory field service and the completion of pre-promotional course, the Petitioner cannot be considered for any promotion.



19. Mr. Sanjoy Ghose, the learned senior counsel for the Petitioner contended that the contents of the order dated 22.03.2023 declining promotion to the Petitioner beyond the rank of Deputy Commandant is contrary to the clear directions issued by the Division Bench *vide* judgment dated 24.12.2019, which mandates that the Petitioner herein will be entitled to all the consequential benefits including promotion w.e.f. 10.07.1995.

19.1 He states that Petitioner's immediate junior, Mr. R.D.S. Sahi, ADG, was promoted to the rank of IG on 29.07.2016 and as per the directions of the Division Bench, the Petitioner herein is entitled to be promoted to the rank which his immediate junior was holding on the date of the compliance of the judgment of the Division Bench.

20. Mr. Sanjay Jain, learned Additional Solicitor General ('ASG'), appearing on behalf of the Respondent(s) has contended that the Petitioner herein has no right to promotion. He states that the Petitioner only has a right to be 'considered' for promotion. He states that the Petitioner herein was placed under 'deemed suspension' on 12.08.2015 (w.e.f. 10.07.1995) and the said suspension remained in operation till 16.10.2018. He states that the Division Bench was conscious that the Petitioner herein has not served actual duty and therefore, directed that the Petitioner would not be entitled to back wages.

20.1 He states that the Petitioner has not been exonerated by the Division Bench. He states that the Division Bench has upheld imposition of minor penalty and therefore, the Petitioner herein does not have an unblemished record.

20.2 He states that when compared there is a stark contrast in the services rendered by the Petitioner and his immediate junior Mr. R.D.S. Sahi. He



states that, therefore, the Petitioner is not entitled to promotions at par with his immediate junior.

20.3 He states that if the Petitioner is dissatisfied with the Reinstatement order (as amended on 10.03.2023) and the order dated 22.03.2023, he must avail his legal remedy by impugning the said orders or by seeking a clarification in the disposed of W.P. (C) 1525/2019.

20.4 He lastly states that in the facts of this case, the Respondent(s) cannot be held to have acted in wilful disobedience of the directions issued by the Division Bench *vide* judgment dated 24.12.2019 and therefore, the present contempt petition be disposed of in view of the compliance reported in the affidavit dated 13.03.2023 and the order dated 22.03.2023.

21. In response, Mr. Sanjoy Ghose, Senior Advocate, states that on conjoint reading of the unequivocal directions of the Division Bench issued *vide* judgment dated 24.12.2019 and paragraph 35 (v) of the Reinstatement order, the Petitioner herein has been held to be ‘on duty’ for the purposes of grant of consequential benefits including promotions.

21.1 He states that the Petitioner herein has been prevented from fulfilling the eligibility criteria required for promotion to the subsequent posts on account of the acts and omissions of the Respondent(s) herein.

21.2 He relied on the following judgments to buttress his contentions:

- (i) ***Jasbir Singh v. Union of India, 2004 SCC OnLine Del 1026;***
- (ii) Judgment dated 16.11.2006 passed in W.P.(C) 695/2002 titled as ***‘Satyananda Rath v. Union of India’;***
- (iii) ***Ashok Kumar v. Union of India, 2009 SCC OnLine Del 3407;***
- (iv) ***Devender Singh Sandhu v. Union of India, 2013 SCC OnLine Del 2204;*** and



(v) *Satish Kumar Kehtarpal v. Director General CISF & Ors., 2017 SCC OnLine Del 7491.*

21.3 The aforesaid judgments have been cited to contend that a perusal of the judgment dated 24.12.2019 of the Division Bench in this case would show that the Court concluded that the Petitioner herein has suffered on account of the erroneous procedure adopted by the Respondent(s) in dealing with the case of the Petitioner and after due deliberation consciously directed that the Petitioner would be reinstated from the date of service, i.e. 10.07.1995.

21.4 He states that the reasons cited by the Respondent(s) in its order dated 22.03.2023 for not considering the Petitioner for the next rank, are not valid, as the Petitioner herein will be entitled to a notional promotion and not an actual promotion. He states that the said reasons would've been valid if the Petitioner actually had to discharge field duties pursuant to the higher rank. He further states that the reasons cited for denying promotion are, therefore, merely a pretext to continue to deny the Petitioner the benefits granted to him by the Division Bench *vide* judgment dated 24.12.2019.

Analysis and findings on Issue No. 2, re: promotion

22. This Court has considered the rival submissions of the parties with respect to the Petitioner's claim for promotion to the post of IG, CRPF.

23. It is a matter of record that the Petitioner's immediate junior held the post of IG, as on 14.09.2021 when the Respondent(s) first considered the Petitioner's case for promotion in compliance with the judgment of the Division Bench. The Petitioner's immediate junior, was promoted to the post of ADG on 01.02.2023.



24. The Petitioner in his written submission filed on 02.03.2023 has stated that even if the Respondent(s) imposed the penalty, w.e.f. 16.10.2018, the Petitioner herein is entitled to promotion till the rank of IG from 2021 till his date of retirement i.e., 31.03.2023.

25. In the facts of this case, the obstinate denial of the Respondent(s) to give effect to the judgment of the Division Bench in favour of the Petitioner is writ large. The Petitioner was served with a charge sheet on 06.09.1989 and penalty of “removal from service” was imposed on the Petitioner on 10.07.1995. The said order imposing penalty of removal from service, after four (4) rounds of litigation was first set aside on 30.11.2012 by the Division Bench of Madhya Pradesh High Court and the Petitioner was directed to be reinstated. The Respondent(s) acted upon the said order dated 30.11.2012 belatedly on 12.08.2015 and while reinstating the Petitioner, the Respondent(s) immediately placed him under deemed suspension w.e.f. 10.07.1995, until further orders.

26. Though the Petitioner made representation against his deemed suspension on 05.10.2015, the Respondent(s) failed to take any further steps in the disciplinary proceedings, which remained pending. It was during the pendency of a writ petition filed before this Court that the Respondent(s) took the final decision on 16.10.2018 reiterating their decision of imposing penalty of “removal from service” on the Petitioner. The said order dated 16.10.2018 was set aside by the Division Bench by its judgment dated 24.12.2019 holding that the Respondent(s) herein had fallen in serious error in the manner in which the Petitioner’s case has been dealt with and in these facts and circumstances set aside the order dated 16.10.2018 and directed his



reinstatement from 10.07.1995. The Respondent(s) issued the Reinstatement order on 08.03.2021 and the Petitioner re-joined CRPF on 16.03.2021.

27. In the facts and circumstances of this case at this juncture it is pertinent to refer to the decision of a Division Bench of this court in *Nb. Subedar (Skt) Jasbir Singh v. Union of India, 2004 SCC OnLine Del 1026*, wherein the court held that, an officer cannot be denied his promotion if he is unable to fulfil the eligibility criteria due to the wrongs committed by the department. Further this court in the case of *Satish Kumar Kehtarpal v. Director General CISF, Neutral Citation 2017:DHC:1470-DB*, held that the officer's inability to complete the pre-promotional course on account of the fault of Departmental authorities must not come in the way of officers being granted notional promotion.

27.1 In the light of decisions discussed above it can be reckoned that Petitioner cannot be refused promotions because of the Respondents' failings, for the reason that period from 10.07.1995 till 16.03.2021, wherein the Petitioner was prevented from serving in active duty was solely on account of the acts and omissions of the Respondent(s), as is evident from the judicial record. The inability of the Petitioner, therefore, to render mandatory field service or to complete residency period and pre promotional courses is only on account of circumstances created by the Respondent(s).

28. The Petitioner has rightly contended that the Reinstatement order at paragraph 35 (v) expressly states that for the purpose of promotion the intervening period, i.e. 10.07.1995 to 23.12.2021, shall be treated as period 'On Duty'. Thus, for the purposes of granting notional promotion to the Petitioner, the Respondent(s) were bound to consider the Petitioner 'on duty' for the said period and therefore, the reasons cited in the order dated



22.03.2023 for denying promotion is contrary to paragraph 35 (v) of the Reinstatement order and the unequivocal direction issued by the Division Bench *vide* judgment dated 24.12.2019. The paragraph 35(v) of the Reinstatement order reads as under:

*“The intervening period w.e.f. 10.07.1995 to 23.12.2019 (i.e. one day before the Hon’ble High Court of Delhi order dated 24.12.2019 in WPC No. 1525/2019) will be treated as ‘period not spent on duty’ under the provisions of FR-54-A, **except for the purpose of pension, pay fixation, seniority and other consequential benefits including promotions, as per the directions passed by the Hon’ble High Court of Delhi vide order dated 24.12.2019 and upheld by the Hon’ble Apex Court vide order dated 07.12.2020.**”*

(Emphasis supplied)

29. The learned ASG has, however, sought to explain the said direction at paragraph 35 (v), by merely stating that promotion is not a matter of right.

30. This Court is unable to accept the said submission of the learned ASG and is of the opinion that considering the fact that the promotion which was being offered to the Petitioner was notional and not actual, the Respondent(s) in light of the judgment dated 24.12.2019 are obligated to grant notional promotion to the Petitioner to the post held by his immediate junior, Mr. R.D.S. Sahi.

31. The judgment of the Division Bench was passed on 24.12.2019, however, the record of this contempt petition would evidence that the Respondent(s) made piecemeal compliance of the judgment under the pain of the orders passed in this petition. This would be evident from the fact that (i) the Reinstatement order was passed on 08.03.2021 and the Petitioner re-joined on 16.03.2021; (ii) the Respondent(s) sought to impose the minor penalty w.e.f., 08.03.2021 despite the fact that the Division Bench had



unequivocally directed that the Petitioner is to be reinstated w.e.f., 10.07.1995. In the bargain, the Respondent(s) contested these proceedings to deny the relief of promotion; (iii) The Respondent(s) after many a flip-flop amended its stand to impose the minor penalty w.e.f., 16.10.2018 and consequently, on 22.03.2023 granted promotion for one rank to the post of Deputy Commandant; and (iv) the issue surviving for compliance is the notional promotion of the Petitioner to the posts of Second-in-Command, Commandant, DIG, IG and ADG, since the Petitioner's immediate junior Mr. R.D.S. Sahi held the post of IG since 29.07.2016 and as on the date (12.08.2021) when the Petitioner was considered for promotion to give effect to the directions issued in the judgment dated 24.12.2019.

32. This Court is of the opinion that learned ASG, appearing on behalf of the Respondent(s) has sought to explain the denial of promotion to the Respondent(s) on the facts enumerated in the written note handed over to the Court during the course of hearing on 28.03.2023 to contend that the Petitioner herein cannot be compared in view of the service rendered by his immediate junior, who served on actual duty for more than thirty-seven (37) years whereas the Petitioner herein spent approximately, eight (8) years in physical duty.

33. This Court is of the opinion that neither the Respondent(s) nor this Court in the exercise of its jurisdiction in the contempt petition can evaluate the right of the Petitioner to be granted the notional promotion, which has already been directed to be granted by the Division Bench *vide* judgment dated 24.12.2019. The Respondent(s) do not have any discretion in this matter and as directed by the Division Bench at paragraph 35 of the judgment dated 24.12.2019, the Respondent(s) only had to issue



consequential directions to implement the judgment. Even, presently, since the Petitioner has superannuated on 31.03.2023, the grant of promotion to the Petitioner would only be notional and would have bearing on his rank, the pay fixation, seniority, subsistence allowance and the consequential benefits.

34. According to paragraph 4 of the Office Memorandum ('OM') dated 14.09.1992 filed by the Respondent(s) along with the reply dated 03.03.2023, it is necessary for the authorities to ensure that the disciplinary case/criminal prosecution instituted against any Government servant is not unduly prolonged and that all efforts should be made to conclude the proceedings expeditiously so that the need for keeping the case of a Government servant in a sealed cover is limited. However, in the facts of this case, it can be seen that the findings of the DPCs from 1995 have been kept in sealed cover and have not been acted upon due to the ongoing inquiry since the year 1995. The Respondent(s) action in this case plainly demonstrates non-compliance of the OM dated 14.09.1992 and the flagrant disregard for Division Bench's judgment dated 24.12.2019.

35. This Court is, therefore, of the opinion that the Respondent(s) order dated 22.03.2023 declining to grant further promotions to the Petitioner beyond the rank of Deputy Commandant is in violation of the unequivocal directions issued by the Division Bench *vide* judgment dated 24.12.2019.

36. The issuance of the Reinstatement order dated 08.03.2021 seeking to initially impose the minor penalty w.e.f., 08.03.2021; its modification on 10.03.2023 to impose the minor penalty w.e.f., 16.10.2018; the order dated 14.09.2021 declining to grant promotion to the Petitioner to the rank of Deputy Commandant; a fresh review on the issue of promotion and the grant



to the rank of Deputy Commandant *vide* order dated 22.03.2023, all the aforesaid orders while evidencing a flip-flop on the stands taken by the Respondent(s) also evince the lack of willingness to comply with the judgment dated 24.12.2019 in its letter and spirit. The unwillingness of the Respondent(s) to grant the benefit of reliefs directed by the Division Bench *vide* judgment dated 24.12.2019 is writ large on the face of the record.

37. The contention of the learned ASG that the Petitioner must assail the order dated 22.03.2023 in an independent writ petition or seek clarification of the judgment dated 24.12.2019 in the disposed of writ petition is not persuasive as in the opinion of this Court, the intent and directions issued by the Division Bench with respect to the promotion are clear and unambiguous. Further, directing the Petitioner herein to start a fresh proceeding would be a travesty of justice and a mockery of the legal proceedings which culminated with the passing of the final judgment dated 24.12.2019 and which has been further upheld by the Supreme Court by its order dated 07.12.2020.

38. The Petitioner in his written submissions dated 02.03.2023 had stated that even if the date of implementation of minor penalty is considered to take effect from 16.10.2018, he would be entitled to all promotions till the rank of IG from the year 2021, till his date of retirement, i.e. on 31.03.2023. The learned counsel for the Petitioner had relied upon the said submission during the course of hearing dated 03.03.2023 and submitted that the Petitioner would be satisfied if he is granted the rank of IG as on the date of his retirement.

39. This Court is, therefore, of the opinion that there is willful disobedience by the Respondent(s) of the directions issued by the Division



Bench with respect to the implementation of the directions issued at paragraph 35 of the judgment dated 24.12.2019 with respect to pay fixation, seniority and all other consequential benefits including promotion.

40. This Court accordingly holds the Inspector General of Police (Pers.) and DIG (Pers), who held office as on 22.03.2023, guilty of Contempt of Court under Section 2 (b) of the Contempt of Courts Act, 1971 for willful disobedience of the directions issued by the Division Bench at paragraph 34 and 35 in judgment dated 24.12.2019.

41. This Court, however, grants an opportunity of six (6) weeks to the aforesaid Contemnors to issue a fresh order granting promotion to the Petitioner to the rank of IG to bring him at par with his immediate junior as per the merit cum seniority list at the time of the appointment.

42. In case, the Contemnors do not issue appropriate orders granting promotion to the Petitioner to the rank of IG within the time granted by this Court, the matter will be heard for sentencing on the next date of hearing.

43. The Petitioner is directed file an amended memo of parties within one (1) week.

44. List on 31.08.2023.

MANMEET PRITAM SINGH ARORA, J

JUNE 02, 2023/sk