



2025:AHC-LKO:81211

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 1020 of 2006

Prabhu Nath Yadav

.....Petitioner(s)

Versus

Union Of India Through Secretary Ministry Of Home
Affairs

.....Respondent(s)

Counsel for Petitioner(s) : Namit Sharma, Manish Misra
Counsel for Respondent(s) : Dipak Seth, Dinesh Kumar Pandey, Krishna
Kumar Pandey, Raj Kumar Singh

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Manish Misra, the learned counsel for the petitioner and Shri Raj Kumar Singh, learned counsel for Union of India.
2. By means of the present writ petition, the petitioner has sought issuance of a Writ of Certiorari challenging the validity of Efficiency Bar Board proceedings published on 24.06.1993, so far as, the same relate to the petitioner. The petitioner had given representations against the order holding that the petitioner could not cross the efficiency bar and those representations have been rejected by means of orders dated 18.01.2005 & 31.02.2005 and the petitioner has challenged the validity of those orders also. The petitioner has sought issuance of a Writ of Mandamus commanding the respondents to pay all the dues of the petitioner as if, the petitioner had crossed the efficiency bar in the years 1991, 1992 & 1993.
3. The brief facts of the case are that the petitioner was appointed as a constable in Central Industrial Security Force (CISF) on 25.06.1987 in the pay-scale of ₹825-15- 900-20, Efficiency Bar (EB)-20. After an increment given w.e.f. 01.06.1988, the petitioner's basic pay was increased to ₹870/- per month.
4. By means of an order dated 13.12.1988 (published on 07.02.1989), the petitioner was awarded a minor punishment of withholding of annual increment for two consecutive years without cumulative effect. Again, by means of an order dated 23.09.1991, the petitioner was awarded a punishment of seven days' pay fine. Due to withholding of annual increment for two consecutive years without cumulative effect, the increments due in the years, 1989 & 1990 were released on 01.06.1991 raising the petitioner's pay-scale to ₹ 900/-.
5. The increment payable upon crossing the efficiency bar was not granted to the petitioner as he was found "NYF" (not yet fit) by the Efficiency Bar Board in the

proceedings conducted in the years 1991, 1992 and 1993 and, therefore, he was not granted the increments of Rs.20/- payable upon crossing the efficiency bar in the aforesaid years. Ultimately, the petitioner was declared 'fit' by Efficiency Bar Board in the year 1994 and thereupon, his basic salary was fixed as ₹920/- per month w.e.f. 01.06.1994. Subsequent increments were granted to the petitioner but due to non-crossing of efficiency bar for three consecutive years, the petitioner's salary became less than other similarly situated persons and this had a cumulative effect on the pension being paid to him.

6. The representations submitted by the petitioner against all non-award of efficiency bar raised to him, have been rejected.

7. Assailing the validity of the aforesaid orders, the learned counsel for the petitioner has submitted that the effect of punishment of withholding of two annual increments with non-cumulative effect got washed away in the year, 1990 when the annual increments were granted to him. The minor punishment of imposition of seven days' pay fine imposed on 04.11.1991, which would not have any other effect on the emoluments of the petitioner.

8. The respondents have filed a counter affidavit *inter alia* stating that in the year 1990–91, the petitioner was rated 'an average employee'. In the year 1992, he was rated 'good'. For this reason, the Efficiency Bar Board held on 02.06.1992 and 14.07.1993 that the petitioner was 'NYF' to cross the efficiency bar.

9. The orders dated 02.06.1992 & 14.07.1993 (copies whereof have been annexed with the counter affidavit filed by the respondents) merely state that the persons named in the orders, including the petitioner, had not been found fit to cross the efficiency bar by the competent authority. These orders do not assign any reason, as to why, the competent authority has not found the petitioner fit to cross the efficiency bar.

10. The learned counsel for the respondents has submitted that the Efficiency Bar Board has found the petitioner unfit for crossing the efficiency bar keeping in view his poor service record.

11. Replying to the aforesaid submission advanced by learned counsel for the respondents, the learned counsel for the petitioner has submitted that the chart, annexed with the counter affidavit, shows that in the year 1990, the petitioner was rated 'average' but no punishment was awarded to him. The petitioner was rated 'good' in the year, 1992. No adverse material has been brought on record to show that the petitioner was rated poorly in the year, 1993.

12. The learned counsel for the respondents has submitted that the Efficiency Bar

Board has examined service record of the petitioner and due to his poor track record, the Board formed an opinion that the petitioner was 'NYF' to cross the efficiency bar.

13. The poor service record of the petitioner is relatable to award of two minor punishments to the petitioner in the year 1988 & 1989. "Efficiency bar" apparently relates to efficiency of an employee in performance of official duties. The petitioner had previously been imposed a minor punishment of stoppage of two annual increments without cumulative effect in the year 1988, for having witnessed a quarrel between two persons and, thereafter, having denied to have witnessed the same. Allegation against him was that he did not speak the truth. This allegation does not in any manner reflect badly on efficiency of the petitioner in performance of official duties. On the second occasion, the petitioner was said to have indulged into a quarrel outside the work place for which, a punishment of seven days' pay fine was imposed upon him and it also does not reflect poorly upon the efficiency of the petitioner to perform his official duties. Moreover, the petitioner has already been punished for both the alleged incidents.

14. Firstly, this Court is of the considered view that the petitioner could not have been denied crossing efficiency bar for reasons which do not reflect adversely upon his efficiency to perform his official duties. Although the efficiency bar board was entitled to take a decision on the basis of the petitioner's service record, it could have denied the petitioner crossing the efficiency bar only if the record revealed that the petitioner was not efficient in performance of his duties.

15. In the present case, the petitioner has not been allowed to cross the efficiency bar in the years 1991, 1992 and 1993, when he was declared NYF (not yet fit) and not 'unfit'. The use of the expression 'NYF' (not yet fit) indicates that the board was of the view that the unfitness of the petitioner was continuing since prior to the subject year. Had the petitioner been declared unfit', it would have reflected that the board had found the petitioner unfit during the subject year for crossing the efficiency bar on the basis of his performance in the subject year. The only adverse material available on the service record of the petitioner is two minor punishments, the first being stoppage of two annual increments without cumulative effect imposed in the year 1988 for the misconduct that having witnessed a quarrel between two persons, which is not said to have taken place at the work place or during the working hours, the petitioner declined having witnessed the incident and the second being entering into a quarrel for which 7 days' pay fine was imposed on the petitioner in the year 1999. None of the incidents show that the petitioner was not efficient in performance of his official duties. Therefore, the aforesaid incidents of the years 1988 and 1999 and punishments recorded in the service record of the petitioner do not give rise to a ground for denial to let the petitioner cross the efficiency bar during the subsequent years 1991, 1992 and 1993.

16. Secondly, for the aforesaid incidents of the years 1988 and 1999, the petitioner had

already been punished. No person can be punished more than once for the same misconduct. Having already suffered the punishment of withholding of two annual increments with non-cumulative effects and seven days' pay fine, denial of crossing efficiency bar for the same reason has resulted in the salary of the petitioner being diminished with cumulative effect which effect is still continuing when the petitioner has attained the age of superannuation, as he is getting a lesser amount as pension. Thus, the denial of crossing efficiency bar has in effect resulted in a major punishment being awarded to the petitioner, for misconducts for which he had already been awarded two minor punishments.

17. In view of the aforementioned facts, I am of the considered view that the denial of crossing of efficiency bar to the petitioner was illegal and so was the rejection of his representations against the order denying crossing the efficiency bar.

18. Accordingly, the writ petition stands **allowed**. The Efficiency Bar Board proceedings published on 24.06.1993, so far as same relate to the petitioner, are quashed. A Writ of Mandamus is issued directing the respondents to treat the petitioner as having been crossed efficiency bar in the years 1991, 1992 & 1993 and they shall re-calculate the salary/pension payable to him accordingly and also pay the amount of arrears to him within a period of four months from the date, the certified copy of this order is produced before them.

December 5, 2025
V. Sinha

(Subhash Vidyarthi,J.)