

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3940 OF 2010
[arising out of SLP(C) No. 30194 of 2008]

UNION OF INDIA & ORS.

.....

APPELLANTS

VERSUS

JASWANT KUMAR

.....

RESPONDENT

O R D E R

1. Leave granted.
2. The respondent herein was appointed as a Constable with the Central Reserve Police Force on the 2nd of April, 1991 and was posted on polling duty in District Poonch, Jammu in the year 2002. During his duty guarding ballot boxes, he suffered an injury in an encounter with terrorists and as a result of a ricochetting bullet, received a splinter injury to the right eye. In the Court of Inquiry that followed regarding the incident, the respondent was applauded for his courage, intelligence and earnestness and was, accordingly, given some special benefits as well. The respondent subsequently filed a petition before the High Court of Delhi claiming two reliefs:

- (i) the benefits of the Group Personal Accidental Insurance Scheme (GPAIS Scheme) and
- (ii) accelerated promotion on the basis of Assured Career Progression Scheme (ACP Scheme).

In so far as the first aspect is concerned, the High Court in its judgment expressed surprise that though the papers had been forwarded to the United India Insurance Company on 22nd September, 2005, as it was that agency which was to make the payment, nothing had been done for almost three years from that date though the premium was being deducted every month from the respondent's salary. A direction was, accordingly, issued to the Union of India to take up the matter with the Insurance Company and to ensure that the benefit of the Group Personal Accident Insurance Scheme were remitted to the respondent with interest for delayed payment as per the norms within a maximum period of three months from the date of judgment.

3. The second claim of the respondent herein was, however, strongly controverted by the Union of India. It was pointed out that as per condition No. 6 of the ACP Scheme, promotions were to be made from amongst those persons who were under the medical category Shape-1, and that the respondent herein was not of the requisite category, as he had suffered an injury to the

right eye and as such was not entitled to promotion notwithstanding the fact that his case for promotion had been forwarded to the concerned authority and he had appeared in the test and passed the same as well. The High Court however, observed that as the respondent's case had been forwarded for promotion and he had actually taken the test and passed it successfully and as the only defence of the Union of India was that his candidature had been forwarded by mistake, was a factor that did not warrant that the respondent should be kept out of the promotion scheme. The writ petition was, accordingly, allowed.

4. The present appeal has been filed by the Union of India impugning the judgment aforesaid.

5. We have heard the learned Additional Solicitor General and Mr. Abhay Kumar, learned counsel for the respondent.

6. In the facts and circumstances of the case that have been brought to our notice by the learned counsel, more particularly, that the respondent was a meritorious person, his case had been forwarded for accelerated promotion under the ACP Scheme and that he had cleared the test and completed the training as well and it was at that stage that an attempt was being made to keep him back on account of his low medical category, no

interference is called for in the peculiar facts of the case. However, the legal issues raised are kept open for discussion in some other suitable case. We further direct that the Union of India-appellant will ensure that the Insurance Company which is not a party before us, will make the payment to the respondent within a period of three months from today in terms ordered by the High Court..

7. The appeal is disposed of accordingly.

.....J
[HARJIT SINGH BEDI]

.....J
[J.M. PANCHAL]

NEW DELHI
APRIL 28, 2010.