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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2173/2014**

AJIT PRATAP

..... Petitioner

Through: Mr. Srinivasa Rao.K, Advocate.

versus

**DIRECTOR-GENERAL, INDO TIBETAN BORDER POLICE
FORCE AND ANR**

..... Respondents

Through: Mr. Vivek Goyal, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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26.08.2015

The petitioner seeks a direction that he should be duly considered for promotion to the cadre of Deputy Commandant (GD) in the Indo Tibetan Border Police (ITBP). It is urged that the controversy with respect to merger of other cadres with the feeder cadre of Assistant Commandant (GD) which had been the subject matter of W.P. (C) No. 7545/2011 (*Saurabh Dubey Vs. Union of India & Anr*) and connected cases decided on 25.05.2015 has now been settled with the merger being set aside as unjustified.

The Division Bench of this Court held that the notification merging other cadres (telecommunication, data processing, motor transport armour etc) was premature and violative of prescribed procedure and contrary to the existing recruitment rules.

The challenge in the present writ petition was made by an Assistant Commandant (GD cadre) who claims to be adversely affected vis-a-vis their promotional avenues on account of the merger. It is submitted by Mr.Srinivasa Rao, learned counsel for the petitioner that with the judgment in *Saurabh Dubey* (supra), there are no longer any impediments for consideration of promotion of the petitioner and others like him who were eligible and who were also entitled to the benefit of a notification dated 26.11.2011, relaxed condition of five years' regular service by one year (in other words, making Assistant Commandants (GD) with four years' regular service, instead of five years eligible for promotion). It is thus argued that the directions sought for should be granted.

It is argued on behalf of the respondents that even though the Court in *Saurabh Dubey* case (supra) set aside the merger, detailed instructions and final decisions of the Ministry of Home Affairs are awaited. Learned counsel has relied upon the communication in that regard to the effect that the proposal of the ITBP for further and consequential action was submitted to the MHA on 24.07.2015 and that final decision is awaited.

It is evident that so far as the petitioner's eligibility is concerned, as on the date of the judgment of this Court i.e. 25.05.2015, his entitlement (along with that of others like him)—as a member of the Assistant Commandant (GD) cadre—to be considered for promotion to Deputy Commandant was cleared. This has remain unchanged for the last three months or so. The MHA is also seized of the issue.

In these circumstances, the respondents-including the Central

Government through the Ministry of Home Affairs is directed to take a final decision and having regard to that, ensure that appropriate steps are taken for considering such of the eligible officials for promotion to the cadre of Deputy Commandants (GD) in terms of the existing policy, having regard to the vacancies in the cadre of Deputy Commandant (GD) of the ITBP. The entire process shall be completed within 12 weeks from today.

Order *dasti*.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

AUGUST 26, 2015

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