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

+ W.P.(C) 22212/2005 and CM No.22231/2015

OVINDER KUMAR

..... Petitioner

Through: Mr R.K. Saini, Adv.

versus

UOI & ORS.

..... Respondents

Through: Mr Mukesh K. Tiwari and Mr Ruchir
Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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05.11.2015

The petitioner had competed in a combined recruitment process for the post *inter alia* of Assistant Commandant in 2003. His first option was for allocation for the Central Industrial Security Force (CISF). The petitioner was allocated to that post. Later, however, he was sought to be sent to Border Security Force (BSF) on the ground that another candidate was higher in order of merit and he had to be accommodated. In these circumstances, the petitioner—who had been undertaking training—approached this Court by the present proceeding.

On the first date of hearing, i.e., 25.11.2005, the respondents were directed not to disturb the petitioner's training. The order was subsequently confirmed. The controversy in this case was

encapsulated in the order of 29.10.2007 which states as follow:-

“The petitioner was allocated to the CISF in the Central Police Forces (Assistant Commandant) Examination–2003. Subsequently, it transpired that another candidate, Mr. Gurmeet Singh, who was higher in the order of merit to the petitioner was allocated the ITBP. Possibly on the remonstrations of Mr. Gurmeet Singh, he was transferred to the CISF. Consequently the petitioner was sought to be re-allocated from the CISF to the BSF, which according to the Respondents, was in his second stated choice.

The mistake has not been induced by the petitioner. During the pendency of these proceedings, he has attended and completed his Training in the CISF and is presently posted in the rank of Assistant Commandant at the CISF, DHEP, Dulhasti, J&K. He has served in the sensitive post for almost one year.

Mr Saini, learned counsel for the petitioner states that in that particular year i.e. 2003 out of 31 candidates who had been allocated to the CISF, only 27 candidates have joined duties and the petitioner can easily be absorbed into the CISF.

We expect the respondents to take a fresh and positive look into the matter.

Renotify on 19.11.2007.”

Learned counsel for the CISF contends that absorption of the petitioner is impermissible under the rules. He, however, does not dispute that the petitioner has, in fact, completed his training and discharged the duties and responsibilities of Assistant Commandant in the CISF about this 11 years or so. Apparently, the petitioner has been further promoted as Deputy Commandant. This Court also

noticed that the record bears testimony of the fact that out of 31 candidates allocated to the CISF, only 27 had joined—noticed by this Court in its earlier order dated 29.10.2007.

In view of the above circumstances, the respondents are directed to confirm the petitioner's employment of service in the CISF with effect from the date he joined the Force and pass such necessary and consequential orders as are essential to give effect to it for all future purposes. The petitioner shall be declared to have been in the CISF for the entire period in question, i.e., from the date he joined the CISF for the purpose of training. We also clarify that this order is made in the peculiar circumstances of this case given the lapse of time.

The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

NOVEMBER 05, 2015

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