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

Decided on : 21.07.2015

+ **W.P.(C) 2638/2014**

HC/RO KAJAL MAHANTA

..... Petitioner

Through : Sh. N.L. Bareja, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Sh. Vivek Goyal, CGSC with Sh. Brajesh Kumar G.P. and Ms. Aneeta Goyal, Advocates, for UOI.

Sh. S.S. Sejwal, Law Officer with Sh. B.K. Raut, Pairvi Officer, CRPF.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. The petitioner's complaint is that the respondents wrongly cancelled his appointment to the post of Head Constable (Ministerial) by order dated 09.01.2014. According to the Central Reserve Police Force Assistant Sub Inspector (Steno) and Head Constable (Ministerial) Recruitment Rules, 2012, 15% of the cadre is to be filled by Limited Departmental Competitive Examination ("LDCE") and the balance 85% through direct recruitment. The eligibility conditions and the categories of employees entitled to appear in the LDCE are spelt-out in Column 11 of the Schedule to the Rules:

“(i) By selection through Limited Departmental Competitive Examination,

From amongst Constable (General Duty), Head Constable (General Duty), Constable (Daftary) and Constable (Tradesmen) with five year total regular service in Constable and/or Head Constable grade(s) and possessing qualifications prescribed for direct recruits under column (7);

(ii) Should be in the medical category “SHAPE-1”; and

(iii) Must have good record of service.”

2. The petitioner concededly was Head Constable (Radio Operator) – a separate and distinct cadre. In a composite recruitment process which sought to fill LDCE and direct recruit vacancies, the petitioner was permitted to participate on the basis of a No Objection Certificate (“NOC”) granted in that regard on 10.12.2012. He was declared “selected” in the subsequent recruitment process which comprised of a test – held in March 2013. Since he was required to submit a technical resignation, which he did, the CRPF accepted it with effect from 02.12.2013 and appointed him as Head Constable (Ministerial) on 02.12.2013. The appointment was later withdrawn/cancelled by the impugned order. Sh. N.L. Bareja, learned counsel for the petitioner contends that the NOC issued by the CRPF was a conscious decision which allowed him to participate in the recruitment process for LDCE. It was emphasized that having proceeded to uphold the petitioner’s candidature to participate in the process – in which he was successful and even appointed him to the post after accepting his resignation, CRPF cannot now turn around and contend that he was ineligible to participate and get appointed to the LDCE vacancies.

3. This court has considered the materials on the record. The categories of posts who are entitled to participate in the LDCE process clearly do not

include Head Constable (Radio Operator) – to which the petitioner admittedly belongs. The mention of Head Constable (General Duty) and the omission to include Head Constable (Radio Operator) leads to only one conclusion, i.e. that the latter are not eligible to participate in the LDCE for Head Constable (Ministerial). Of course, there is no doubt that the respondents committed a mistake in permitting the petitioner to appear in the LDCE and even issued appointment letter. However, that could not have clothed a petitioner with a right to claim appointment to the post for which he was ineligible, to begin with. The cancellation of his appointment, therefore, cannot be characterized as arbitrary or illegal.

4. We notice that the petitioner has been reverted to the original/parent cadre as Head Constable (Radio Operator). In these circumstances, no relief is warranted. The writ petition is accordingly dismissed.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

JULY 21, 2015
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