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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 23.09.2015
Pronounced on: 30.09.2015

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W.P.(C) 3217/2015, C.M. NO.5752/2015

MAJOR GENERAL R.P. MUND

.....Petitioner

Versus

UNION OF INDIA AND ORS.

.....Respondents

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W.P.(C) 4234/2015, C.M. NO.7668/2015

MAJOR GENERAL SHAMSHER SINGH

.....Petitioner

Versus

UNION OF INDIA AND ORS.

.....Respondents

Through : Ms. Rekha Palli, Sr. Advocate with Ms. Ankita Patnaik, Ms. Punam Singh and Ms. Shruti Munjal, Advocates, for petitioner in W.P.(C) 3217/2015.

Ms. Jyoti Singh, Sr. Advocate with Sh. Dinesh Yadav, Ms. Tinu Bajwa, Sh. A.D. Joshi and Sh. Sameer Sharma, Advocates, for petitioner in W.P.(C) 4234/2015 and Respondent No.5 in W.P.(C) 3217/2015.

Ms. Bharathi Raju with Sh. Ankur Chhibber, Advocates, for Respondent Nos. 1 to 3 in both the matters.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT

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1. These two writ petitions involve decision on common questions of

fact and law. The petitioner in W.P.(C) 3217/2015, Major General R.P Mund (hereafter "Mund") claims quashing of the seniority list issued by the Director General Quality Assurance (DGQA) on 12.11.2014 and finalized on 12.12.2014. He also seeks a declaration that he is entitled to be treated as permanently seconded to the DGQA with effect from 13.07.2005 instead of 19-01-2006 and thus, senior to the fifth respondent - who is also the petitioner in W.P.(C) 4234/2015, i.e. Major General Shamsheer Singh (hereafter "Shamsheer Singh"). The latter, in the second writ petition, seeks a direction that his seniority position shown in the seniority over that of Mund should not be altered and that he was permanently seconded to the DGQA before him.

2. To understand the controversy, it is necessary to lay out certain essential facts. Service officers from various Armed Forces and services are initially inducted from their respective establishments, including the Indian Army into DGQA on tenure basis. They are subsequently granted permanent secondment subject to fulfillment of prescribed eligibility criteria contained in policy letters of the Union Ministry of Defense (MoD) or DGQA. Upon secondment to DGQA, they are governed by the terms and conditions contained in MoD OM No. 67952/ Q/ DGI (Adm-4)/10412/D (Prod) dated 28.10.1978 and MoD OM No 21 (4) / 92 / D (Inspection) dated 04.05.1993. One of the conditions - spelt out in the latter circular, is that the concerned officer should not have been "permanently superseded" in the Indian Army. *'officers of the rank of Major/Lt Col (including Lt Col (TS)) will be considered for permanent secondment subject to fulfilling the eligibility criteria'*. It further states that final orders for permanent secondment can be

be issued only after the selected officers' willingness has been obtained in writing. The officers once permanently seconded will continue in the organization till their retirement and are included in the Cadre Seniority list of Permanently Seconded Service Officers according to their dates of seniority as Substantive Major, as modified based on the penalties/loss of seniority in the parent corps and would be considered for promotion to higher ranks based on availability of vacancies in respective disciplines.

3. It is not in dispute that Mund was ranked senior in the Indian Army before Shamsher Singh- the former in fact became substantive Major on 17.12.1989, whereas Shamsher Singh acquired that position on 22.12.1990. Mund was posted to a unit of DGQA as a tenure officer with effect from 16.01.2002. He had joined DGQA as a finally non-empanelled officer who was rejected thrice (maximum permissible chances) for the promotion to the rank of Colonel in the Army. He was in the Engineering Discipline whereas Shamsher Singh is in Armament Discipline. On completion of one year in DGQA, Mund was considered for permanent secondment in 2003 but was not approved because he was a finally "non-empanelled officer". Mund had submitted a Statutory Complaint dated 14.01.2004 against his non-empanelment (i.e. supersession) by the Selection Board in the Army. The Statutory Complaint filed by the respondent No. 4 against his non-empanelment was rejected; however, he was given partial relief, by expunction of certain adverse remarks by MoD order dated 14.03.2005. This change was apparently not reflected in the papers and documents given to the selection body, i.e. the Quality Assurance Selection Board (QASB). Mund was considered a finally superseded officer and, therefore, ineligible for permanent secondment when the said board met on 13.07.2005. The

Petitioner apparently was constrained to write a reminder/ representation on 04.10.2005 which ultimately culminated in his being considered for permanent secondment on 19.01.2006 and given that benefit. Mund, in his writ petition, states that concerns were voiced in the DGQA with regard to non-publication of the seniority list after 2010, which led to the publication of the provisional gradation list on 12.11.2011. He says that this disclosed, for the first time, shockingly that a QASB was held on 13.07.2005 in terms of which he was not considered for permanent secondment and that he was not even aware that such a QASB was held in 2005. Since he knew that his permanent secondment was after January, 2006, he assumed that the QASB was held only then.

Averments and submissions of Maj Gen. Mund

4. The Petitioner Mund contends and his senior counsel, Ms. Rekha Palli, argues that this omission resulted in his becoming R-2 (Review 2) thereby resulting in loss of seniority and consequent supersession by Shamsher Singh. It is submitted that in terms of the OM dated 4.5.1993, Mund met all eligibility criteria and was clearly ahead of Shamsher Singh in all aspects such as date of seniority, date of acquiring rank of substantive Major as well as date of acquiring rank of selection Grade Lt Col. Counsel argues that the respondents' action in not granting him equal opportunity of consideration for secondment and later for promotion is discriminatory and violates his Fundamental Rights under Articles 14 and 16 of the Constitution of India. Though Mund was not considered by QASB on 13.7.2005 but the gradation list dated 12.11.2014 was released by the board of officers which was presided over by Shamsher Singh which it is alleged, is illegal and unsustainable. As regards the Board of Officers, Shamsher Singh held a

position where the existing policies could be twisted in his favour. It is argued that the said respondent had a conflict because he was a clear beneficiary despite which he participated in the decision making leading to the finalization of the seniority list. Counsel submits that he surreptitiously laid down the framework, guidelines and criteria of the Gradation List in a manner which is not only biased but against the larger interest of the Organization. The final gradation list published on 12.12.2014 deleted all references to the dates of the QASB held, while inducting the officers.

5. Learned counsel relied on the representations given by Mund, notably dated 23-12-2014, which aired his grievances. The said representation stated that:

"In March 2005, my grievance against 'Non-Empanelment' in Army was redressed by GOI, MoD and communicated to DGQA and Self on 16 Mar 2005. Therefore, I was considered as a "Fresh" case 'or Army selection Board held in April 2005. After this Board, I acquired the R1 status. However, I was not considered for permanency in the QASB of 2005 held in July 2005 in spite of being eligible for the same. But neither did my name (with R-1 status) figure in the list of officers for consideration in the QASB nor did the Deptt try to get an update from MS Branch. Instead, I was considered for permanency in QASB No. 1 of 2006 held in Jan 2006 after a copy of redressal letter was fwd to DDG (O)/Adm-4 by self through HQ DQAE. By then, my status had become R-2 and my seniority for promotion had gone down by 02 years thus making Maj Gen Shamsher Singh senior to me. Due to lack of transparency in the Department, this fact of non-consideration for promotion in July 2005 was not known to me and it was revealed only after issue of present provisional Gradation List. For obvious reasons, any representation to this aspect could not be done earlier. This is glaring omission and commission by the DDG (O) which has resulted in arbitrary loss to me and unlawful gain to Maj Gen Shamsher Singh, who also held the appointment of DDG (O) in

the recent past. This merits attention since the fact remains that, had my name been considered for promotion in July 2005, my name today, would have been at Serial No.2 in the published list. I have thus fallen victim to the inaction of the DDG (O) of DGQA Organisation in spite of having fulfilled all criteria for permanency."

6. Ms. Palli, the learned senior counsel took the court through the various gradation lists of officers in the DGQA published till 2010 (2006, 2007 and 2008) and highlighted that none of them spelt out the dates when each officer was cleared by the concerned QASB. Naturally, Mund was in the dark and naturally assumed that he was considered by the first QASB after the expunction of the adverse remarks in March, 2005. However, the reality was otherwise; the QASB of 13.07.2005 ought to have considered his name, but wrongly did not do so. This resulted in injustice to him, because he was as a consequence of the inaction, treated as junior to Shamsher Singh, which was unwarranted. It is also submitted that the peculiar facts of this case reveal that there was really no occasion for Mund to approach any court for relief. He had no way of knowing that he was wrongly overlooked in July 2005, when in reality there was no impediment to his permanent secondment. It is submitted that during the pendency of these proceedings, the official respondents have decided to set right the injustice. Even though Mund attained the age of superannuation on 30th April, 2015, the remedy of the wrong done to him would mean that he would become the senior most officer entitled to be considered for promotion to the post of Director General, DGQA, the highest position and thus entitled to another year's service. In response to Shamsher Singh's allegations in his writ petition and the reply in his own petition, Mund's counsel urged that his secondment in

January 2006 was in order: indeed he was also eligible in July, 2005. It was submitted that the grant of Col. (Time Scale-TS) did not constitute a bar for permanent secondment to DGQA.

Position of the MoD and DGQA

7. The official respondents' position- including that of the DGQA is that according to the records Mund should have been considered for grant of permanent secondment in QASB(3)2005 held on 13 July 2005 with promotion status R1 but was omitted due to oversight, which was accepted by the head of the DGQA. His name was considered subsequently, in QASB(1)2006 held on 19 January 2006 with promotion status R2. Accordingly, on permanent secondment his seniority was fixed below Shamsher Singh, *"which would have actually been fixed above him if his name was correctly considered for permanent secondment in QASB(3)2005 when he was actually due and eligible for it."*

8. Mr. Ankur Chibber, learned counsel for the official respondents, in both the proceedings, urged that the DGQA and the MoD had reviewed the entire facts and in the QASB (2) meeting held on 24th March, 2015 concluded that Mund's claim had to be acceded as he was a victim of omission by the authorities. A copy of the minutes of the said meeting - produced as an annexure to the counter affidavit in Shamsher Singh's writ petition, was relied on. The relevant extract of the said minutes of meeting, which was apparently ultimately approved by the Union Minister of Defence on 25.05.2015, is as follows:

"9. After detailed discussions with the QASB members and after going through and verifying the various records on files the Secy (DP) gave the following decisions/directions:-

(a) Permanent secondment of Maj Gen R.P Mund in the rank of Col(TS) has been correct as has been clarified by MS Branch/ MS (Policy), in their two communications dated 08Aug2012 and dated 11Oct 2013;

(b) Promotion of Maj Gen RP Mund to the rank of Maj Gen on 14 Oct 2013 has also been correct.

(c) The JS(P&C)'s noting after discussions with LA(Def) is very clear, that there was no anomaly in either permanent secondment of Maj Gen RP Mund as Col(TS) or promotion of Maj Gen RP Mund in spite of the Hon'ble Delhi High Court Order dated 25 Sep 2013.

(d) Maj Gen RP Mund met all the eligibility criteria for permanent secondment for QASB(3)2005 and hence should have been considered for the same in QASB in Jul 2005.

(e) The officer cannot-be penalised for an error/ omission on the part of the department in not considering his name for permanent secondment-in QASB(3)2005 and hence his name should, be considered for permanent secondment as on 13 Jul 2005 and his seniority should be refixed as per his promotion status as at that time i.e. R1 in No. 3SB.

(f) After approval of the reviewed QASB proceedings of QASB(3)2005, the Screening Committee proceedings imist be initiated for appointment of the next DGQA.

10. Secy(DP) once again categorically asked JS(ES), Sliri JRK Rao, if the officer met the other eligibility criteria for permanent secondment as per the ACRs etc The JS(ES) confirmed that Maj Gen RP Mund of course met all-the other eligibility criteria as .per his ACRs, but he only had objection to his permanent secondment on technical ground that he was a Col (TS) at the time of secondment. Secy (DP) said that this issue has been considered and Maj Gen Mund's being Col (TS) does not de-bar him from being permanently seconded especially when he was

not yet finally superseded and he was held against a Lt. Col's vacancy. This has also been clarified by MS Branch.

11 Based on the foregoing deliberations the QASB agreed to the proposal of permanent secondment of Maj Gen (then Col(TS)) RP Mund in DGQA by review of QASB(3)2003 with promotion status R1 in No. 3SB."

9. The official respondents also urge in both the proceedings, that seniority of the officers on permanent secondment to DGQA is fixed based on the promotion status and other penalties earned by them in Army, the data for which is received from MS (Military Secretary) Branch as on the date of holding of QASB. They also state that consequent to implementation of Ajay Vikram Singh Committee (AVSC) Report, the Army had introduced Special Merit Board (SMB) by letter dated 16 January 2005 for all officers promoted to the rank of Lt. Col under AVSC Recommendations. Since DGQA is dependent on Army for intake of service officers, a cut-off age of 44 years at the time of permanent secondment was prescribed. All officers with 13 years' service were to be considered for the rank of Lt. Colonel; the rank of Lt. Col (Time scale) was done away with. It is averred by the MoD and DGQA in W.P.(C) 4234/2015 that instead of Lt. Col (Time scale) *"the rank of Col(TS) was introduced on completion of 26 years of reckonable service officers were eligible to be promoted to the rank of Col(TS)."* Responding to the submission on behalf of Shamsher Singh that Mund (impleaded as fourth respondent in his writ petition) was ineligible for secondment, not only because of supersession, but also because he was Col (TS), the official respondents urge that the plea is unmerited:

"It is submitted that as per GoI/ MoD OM dated 04 May 1993 officers of the rank of Maj/ Lt.Col (including Col(TS)) will be

considered for permanent secondment subject to fulfilling the other eligibility criteria. The OM does not include the rank of Col(TS) because at that time there was no rank of Col(TS) in the Army, It is also relevant to state that the rank of Col(TS) came into being w.e.f. 16.12.04 with the implementation of AVSC Recommendations and the Respondent No. 4 became eligible for grant of rank of Col (TS) on 17.12.2004 having completed 26 years of service. The clarifications received from MS Branch amply clarify and prove that the permanent secondment of Respondent No. 4 in the rank of Col (TS) is in order."

Position of Maj. Gen. Shamsher Singh

10. Shamsher Singh's position - articulated in the writ petition filed by him, the counter affidavit to Mund's petition, as well as during the hearing by his senior counsel, Ms. Jyoti Singh is that Mund was ineligible, in the first place for permanent secondment, irrespective of his supersession. To say so, Shamsher Singh's counsel relies on the conditions stipulated in the office memorandum of 04.05.1993 only which entitle only those holding the ranks of Major/Lt Col/Lt Col (TS) eligible for permanent secondment. It is pointed out that Mund was approved for Col. (TS) in December, 2004 and promoted to that rank on 24-02-2005. It is alleged that *"with the mala fide intention of getting himself permanently seconded to DGQA, he manipulated to have his rank incorrectly reflected as 'Lt Col' in place of 'Col (TS)' in all the documents of QASB 1(2006) held on 19.01.2006. The QASB, so misled, erroneously approved respondent No. 4 for permanent secondment to DGQA in its meeting QASB 1(2006) held on 19.01.2006."*

11. Ms. Jyoti Singh argued that Mund was empanelled for permanent secondment to DGQA by QASB 1(2006) held on 19.01.2006. Thereafter, his name was correctly included in the Gradation List below the petitioner

based on his promotion status as on the date of holding of QASB 1 (2006). Since his permanent secondment to DGQA, several Gradation Lists were published, i.e. on 15.09.2006, 15.10.2007, 10.11.2008, 15.01.2010 before the impugned final list, of 12.12.2014. In all the Gradation lists published after his permanent secondment in 2006, Mund was correctly placed below Shamsher Singh. He accepted promotions from the rank of Colonel to Major General and never questioned the *inter-se* seniority between him and Shamsher Singh. The officer was fully aware that he may be denied the rank of Major General if his ineligibility for permanent secondment comes to the notice of the Competent Authority. It is further submitted that the substantive ranks of Colonel and Brigadier were granted to Shamsher Singh with effect from 01.01.2007 and 01.08.2011 respectively and ahead of Mund; he was granted these ranks later with effect from 02.06.2007 and 01.11.2011 respectively. Hence, Shamsher Singh was all along treated as Mund's senior.

12. Learned counsel submitted that the basis of Mund's claim for *ante dated* entry to the DGQA and consequent seniority, i.e. his being in the dark, till publication of the provisional gradation list of 12.11.2014, is misleading. It is urged that, not only are the facts of QASB being held known to all concerned; in fact these were clearly indicated in the Gradation lists published during the intervening period, i.e. 2006, 2007, 2008 and 2010. Counsel endeavored to show how each list contained clear indications when the concerned officer was recommended for permanent secondment. Thus having not taken steps to seek for the alleged wrong, Mund cannot now claim belated relief.

Analysis and conclusions

13. As is evident, entry to the DGQA is initially through secondment for a tenure. Absorption or permanent secondment from amongst offices of different forces, *inter alia*, the Indian Army, is subject to an officer's fulfilling certain prescribed norms. These norms include among others, consideration to be confined amongst those of a particular rank. Higher ranking officials cannot be considered. At the relevant time, only Army Majors and Lieutenant Colonels could be considered: this is what was prescribed by office memoranda issued in 1978 and 1993. The latter document also stipulated that permanently superseded officers could not be considered for permanent secondment. There is no serious dispute about the fact that Mund was one such officer considered to be permanently superseded and, therefore, ineligible for consideration in early 2005. Indisputably, this evaluation was premised upon an ACR entry made earlier by the competent authorities of the Indian Army. He had sought administrative redress through a statutory complaint- to the Indian Army. A part of his representation was acceded to; the adverse portions of his ACR gradings were expunged, in March 2005. However, this aspect was overlooked and he was not considered by the QASB which recommended names for permanent secondment. At that time, he was treated as an ineligible, because for some reasons, the deletion of the adverse ACR grading was not communicated to the QASB. When the QASB did meet in January 2006, it took into account Mund's changed career status and recommended him for permanent secondment. He was permanently seconded on 19 January 2006. He contends that he was all along kept in the dark about the fact that he was overlooked by QASB (3) of 2005 which met

on 13.07.2005. He argues that in fact he was unaware about that meeting and that this came to light for the first time on 12.11.2014 when the fact was revealed in the provisional gradation list. This argument is sought to be supported by Mund's representation dated 24.11.2014. The MoD and the DGQA now support his stand and contend that in the review QASB conducted in April, 2015, it has been decided to *ante date* his permanent secondment as effective from 13.07.2005. This would inevitably result in revision of *inter se* seniority of officers. Shamsheer Singh counters Mund's arguments and contends that in the first place Mund's rank shown in the QASB proceedings- of QASB(1) 2006 as Lt Col when he was actually a Col(TS), thus incorrectly treating him as ineligible. Here it is submitted that only officers up to the rank of Lt. Colonel's could be permanently seconded; since Mund was Colonel (TS) he was ineligible. More substantially, he urges that seniority should not be disturbed at this length of time because Mund had every occasion to question his non consideration in QASB (3) of 2005; yet he did not. Unsettling long established seniority rights, he argues is contrary to law. Besides, having accepted the consequence of entry into DGQA in January, 2006, Mund cannot now be allowed to steal a march over Shamsheer Singh.

14. A very crucial position that is relevant for deciding these two petitions is that not only the entry to DGQA, but also subsequent career movement, in the form of promotions to the positions of Selection Grade Colonel, Brigadier and the rank of Major General which both contesting parties hold, is on the basis of the Gradation Lists published during the intervening period: 2006, 2007, 2008 and 2010. The gradation list of 10.11.2008 reveals that Mund's rank of acting Colonel was given on 25.05.2007; there was an

officer, Col. T.P Singh, above him who was conferred substantive rank of Colonel on 01.06.2007; Shamsher Singh was conferred rank of substantive Colonel on 01.01.2007. Both were shown as Mund's seniors in the subsequent seniority list issued as on 15.01.2010. Furthermore:

a) All the gradation/seniority lists issued i.e.. in 2006, 2007, 2008 and 2010, indicate the date of seniority in the ninth column. Every one of them clearly indicated that the date of seniority of Mund was earlier than Shamsher Singh.

b) It is not disputed that the gradation lists indicated the QASB which recommended the officer's case for permanent secondment, or promotion in DGQA. In the case of Mund, the 2006 list clearly referred to the MS branch reference of January, 2006. Shamsher Singh's entry (Sl. No 74) clearly stated "QASB (2) 05" thus signifying that he was recommended by the QASB No. 2 of 2005. The same list contains at least four entries indicating that the concerned officer had been recommended by QASB (3) of 2005.

15. If these facts were to be taken into consideration, what emerges is that at different points in time, Mund was made aware that Shamsher Singh was senior to him in the DGQA; the gradation lists also published the date of relative seniority of officers. If these facts were known to all parties and offices, as well as the circumstance that Shamsher Singh had been recommended by QASB (2) of 2005-which was disclosed very early: in 2006, Mund could reasonably have acquainted himself the facts. In other words, that Shamsher Singh was shown senior to him in the organization even though the date of his entry in the Army was later and secondly that the said officer had been recommended by QASB (2) which it can be reasonably assumed, was held in the first half of the year 2005, were circumstances

known to Mund. Importantly also, that another Board, QASB (3) of 2005 had been held was a matter of record – apparent from the gradation list of 2006. In the circumstances, the explanation of Mund keeping quiet – as articulated in his representation dated 24 November 2014, cannot be given credence. He writes that:

"3. The above oversight is brought to the notice now since the information regarding date of QASB is being reflected now and was not known to the environment earlier."

As discussed earlier, Mund- as well as all other officers had reasonable grounds to know which Board or QASB of which year had recommended their permanent secondment, or promotion, as the case may be. Mund's omission to air his grievance in 2006, or indeed at all relevant times, when the gradation lists were published in 2007, 2008 and 2010, therefore, have to be seen as his reluctance or unwillingness to do so, despite becoming aware of such state of affairs.

16. In *Bimlesh Tanwar v. State of Haryana* AIR 2003 SC 2000, the Supreme Court observed as follows:

"Furthermore, it is now well settled that a settled seniority position should not be unsettled. The respondents had already been posted to the post of Additional District Judge. As would appear from the report of the Sub-committee that the seniority list was published in the year 1992. Representations were, however, made only in the year 1997 which was rejected by the High Court on 22nd August, 1997. The writ petition was filed in March, 1998 which was dismissed by reason of the impugned judgment dated 18.8.1999."

In *P. Sadashivaswamy v. State of Tamil Nadu* AIR 1974 SC 2271, the Supreme Court ruled that unreasonable delay in seeking redress of

promotional claims disentitles a litigant to relief:

"..it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under [Article 226](#) in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters- The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal."

Recently, in *State of Uttaranchal v. Shiv Charan Singh Bhandari* 2013 (12) SCC 179, it was held that:

"in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Any one who sleeps over his right is bound to suffer. As we perceive neither the tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion."

17. This Court is conscious of the fact that a review DGQA was constituted in April, 2015 which has recommended that Mund's permanent secondment be treated effective from July, 2005. But the undeniable

consequence of allowing this recommendation to be given effect is to undo the settled seniority of Shamsher Singh (and of other officers who were shown as Mund's seniors in the previous seniority lists). Furthermore, seniority in the higher ranks based on different QASBs held, would also be disturbed. Clearly, Shamsher Singh's arguments on this score are substantial and merited. Having acquiesced or slept over the issue, Mund is now precluded from claiming a superior right, i.e. date of permanent secondment which would place him above Shamsher Singh and trigger a review of all intervening QASBs for the purpose of ante dating his promotion to higher ranks.

18. For the above reasons, it is held that the relief sought by Major General R.P. Mund in his writ petition cannot be granted; the directions sought by Major General Shamsher Singh are hereby granted; the MoD and DGQA are hereby enjoined to forbear from giving effect to any recommendation which would result in loss of seniority of Major General Shamsher Singh. W.P.(C) 3217/2015 fails and is dismissed; W.P.(C) 4234/2015 succeeds and is allowed. There shall be no order on costs.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

SEPTEMBER 30, 2015