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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7339/2013

H.C. DEVENDRA SINGH

..... Petitioner

Represented by: Mr.Medhanshu Tripathi, Advocate
with Mr.A.K.Singh, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Represented by: Mr.Ankur Chhibber, Advocate

W.P.(C) 7364/2013

CT. JITENDRA KUMAR

..... Petitioner

Represented by: Mr.Medhanshu Tripathi, Advocate
with Mr.A.K.Singh, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Represented by: Ms.Saroj Bidawat, Advocate
Mr.S.S.Sejwal, Law Officer, CRPF

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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06.04.2015

1. Both writ petitioners cleared the written examination for being appointed (on promotion) through a Limited Departmental Competitive Examination as a Sub-Inspector in CRPF. Whereas Devendra Singh is a

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Head Constable in CRPF, petitioner Jitendra Kumar is a Constable in CRPF.

2. The grievance of both is to a decision taken by the respondents holding them ineligible to be appointed as a Sub-Inspector through the Limited Departmental Competitive Examination on account of they having a non-qualifying service entered in their service record.

3. The non-qualifying service for HC Devendra Singh pertains to the 12 days between May 07, 2006 to May 18, 2006. As regards petitioner Jitendra Kumar the non-qualifying period would be of 10 days between December 26, 2006 to January 05, 2007.

4. Concededly, both had exhausted their earned leave as also half pay leave. This led to the two periods for the two writ petitioners to be treated as leave without pay when they over stayed leave and hence as per the leave rules the period of unauthorized absence was treated as a period of service not rendered for purpose of computing the pensionable service rendered.

5. After some arguments on the factual aspect, in view of the record produced, learned counsel for the petitioners concedes that the two writ petitioners cannot lay a grievance to the respective period being treated as leave without pay and further as not qualifying service period.

6. Thus, with respect to the pleadings in the two writ petitions, learned counsel for the petitioners concedes that they have no case.

7. However, a point has been urged, in respect whereof there are no pleadings. But, the said point is conceded to by learned counsel for the respondent.

8. Concededly, except for CRPF, no other Central Para Military Force has put the condition that a person would be ineligible for appointment

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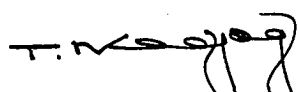
through promotion by way of a Limited Departmental Competitive Examination if he has a non-qualifying service while serving the organization. In view thereof, CRPF has made a reference to the Cadre Controlling Ministry : Ministry of Home Affairs, seeking approval to remove the condition of disqualification if a person is found to be having a non-qualifying period of service.

9. The Ministry of Home Affairs, as learned counsel for the respondent informs, has yet to take a decision.

10. Therefore, with consent of parties we dispose of the two writ petitions declining relief as prayed for. However, we direct that if the Ministry of Home Affairs gives approval to the proposals sent by CRPF to remove the negative disqualifying stipulation, if a person has a non-qualifying service entered in the leave record; the candidature of the petitioners who have cleared the written examination but were deprived further absorption in the selection process shall be proceeded ahead by treating the two as being eligible for appointment on promotion to the post of Sub-Inspector through the Limited Departmental Competitive Examination.

11. It is hoped and expected that Ministry of Home Affairs would take the necessary decision within the next two months.

12. No costs.


PRADEEP NANDRAJOG, J.


PRATIBHA RANI, J.

APRIL 06, 2015

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