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

Decided on : 11.08.2015

+ **W.P.(C) No.7563/2015**

CT/GD GIRISH KUMAR

..... Petitioner

Through: Mr N.L. Bareja, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms Barkha Babbar, Adv for UOI

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. Issue notice. Ms Barkha Babbar, Advocate accepts notice on behalf of the respondents.
2. The petitioner is aggrieved by the respondents' inaction in issuing him an appointment letter for the post of Sub-Inspector/GD in the Central Reserve Police Force (CRPF) and questions the rejection letter dated 14.09.2012 and subsequent letter dated 27.04.2015.
3. The brief facts are that the petitioner had joined the CRPF as a Constable and while serving in the 194 Battalion of the CRPF, the respondent issued a notification dated 28.10.2012 inviting applications for filling up 176 vacancies for the post of Sub-Inspector through Limited Departmental Competitive Examination (LDCE). It is not in dispute that the

petitioner qualified in the written examination held on 02.09.2012 and was also successful in the remaining selection process which included physical endurance test and other parameters. However, his candidature was rejected on 14.09.2012. The intimation dated 14.09.2012, *inter alia*, briefly stated that 'he is rejected due to punishment censure'. The CRPF's position in this regard is that the petitioner had been inflicted with a penalty of censure on 10.03.2008 and that given the eligibility condition 'd' in Standing Order No.1 of 2010, issued on 05.06.2010, even successful candidates cannot claim appointment, if they have blemish in their service record. Counsel for the CRPF reiterated the contentions of the Standing Order No.1 of 2010 and submitted that these have to be read together with relevant recruitment rules. Unlike in the case of normal channel of promotion by seniority, where such question may not arise and the petitioner might be eligible, the specific stipulation in the concerned Standing Order could not have been ignored. Since the petitioner was inflicted with censure in 2008, the fact that he qualified in the recruitment process did not *per se* entitle him for appointment in the LDCE quota.

4. The relevant stipulation in the Standing Order No.1 of 2010 dated 05.06.2010, relied upon by the CRPF, reads as follows:-

"d) Clean Record —They should have minimum Good ACRs of last four years and should have unblemished service records till the issue of offer of appointment."

5. It is not in dispute that the petitioner was censured in 2008. Equally, it is not in dispute that his service records are thereafter not only clean, but he has been graded with 'Very Good' for the last four successive years

thereafter till the recruitment process begun. In these circumstances, the CRPF's stand that the infliction of censure bars the candidate from entitlement for being considered for appointment in LDCE quota, but on the other hand does not affect his entitlement for normal promotion is not only irrational, but illogical. It is not the CRPF's case that the censure has any definitive consequence like in the case of a mere serious penalty—even a minor penalty such as stoppage of increments with or without cumulative effect. Even in such instances, the effect of the penalty exists only for the duration in post. The only way, in the opinion of the Court, the meaning to be given to condition of having “unblemished service record” pertains directly to what occurs thereafter, i.e., till the issue of offer of appointment. In other words, if after selection, the candidate is found to have indulged in some misconduct or inflicted with the penalty, the question of his seeking appointment would not then arise because then it cannot be said that he/she has unblemished record till appointment.

6. It is lastly urged by the CRPF that the amendment/addendum made on 11.10.2011 reiterates the same condition and having regard to these facts, the petitioner cannot claim entitlement to the appointment letter. In our opinion, the amendment/addendum relied upon does not further the case of the CRPF. It merely reiterates the condition, but, in no way alters its application.

7. In the present case, the censure order was imposed in March, 2008. Given that the petitioner has earned successive four ‘Very Good’ gradings, the rationale of the CRPF to withhold the appointment letter to the petitioner is unsustainable. Impugned letters are accordingly set aside. The CRPF is directed to conduct consequential action and issue the necessary

appointment letters after verifying the records. The entire process shall be completed within eight weeks from today.

8. The writ petition is allowed in above terms.

**S. RAVINDRA BHAT
(JUDGE)**

**DEEPA SHARMA
(JUDGE)**

**AUGUST 11, 2015
BG**

