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

+ W.P.(C) 8248/2016

VIKRAM SINGH AND ORS Petitioners

Through: Ms.Jyoti Singh, Sr. Adv. with Mr.
Dinesh Yadav and Mr.Amandeep Joshi, Advs.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr.Vivekanand Mishra, Sr. Panel
counsel

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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22.09.2016

1. The petitioner has filed this writ petition, seeking a writ of mandamus directing the respondents to constitute a Departmental Promotion Committee (DPC) without any delay and consider the petitioners for promotion to the rank of Deputy Commandant from the date they became eligible for promotion to the rank of Deputy Commandant for the vacancy year 2013-14 or 2014-15, along with the consequential benefits of seniority.
2. The respondents have also sought a writ of mandamus directing the respondents to, thereafter, consider the residual/eligibility service for next rank of 2nd-in-Command from the dates of above notional seniority.
3. First of all, we have serious doubts as to whether we can direct the respondents to promote the petitioners to the rank of Deputy Commandant

with the benefits of seniority from the date of the vacancy. It is well-settled that seniority is ordinarily computed from the date of appointment and not from the date on which the vacancy accrues.

4. Be that as it may, by an office memorandum dated 26th November, 2010, minor cadres have been merged with that of Deputy Commandant (GD) cadre and a combined seniority list of the Deputy Commandant (GD) cadre Group –A officers have been notified along with minor cadre officers. The seniority of the officers has been fixed on the basis of the respective dates of appointment, as a result, whereof, there was some change in the seniority position of some of the officers.

5. Several writ petitions were moved by the officers who had been placed below others (impleaded as respondents in those writ petitions) in the seniority list. By a common judgment and order dated 25th May, 2015, a Division Bench of this Court set aside the impugned order dated 26th November, 2010.

6. A Special Leave Petition has been filed against the aforesaid judgment and order of the Division Bench, which is still pending before the Supreme Court.

7. One Mr.Bhanu Pratap Singh, an aspirant for promotion to the post of Deputy Commandant moved a writ petition in this Court being WP(C) no.2162/2014 which has been disposed of vide a judgment and order dated 26th August, 2015, the operative part, whereof is set out hereinbelow:-

“In these circumstances, the respondents -including the Central Government through the Ministry of Home Affairs is directed to take a final decision and having regard to that, ensure that appropriate steps are taken for considering such of the eligible officials for promotion to the cadre of Deputy Commandants (GD) in terms of the existing policy, having regard to the vacancies in the cadre of Deputy Commandant (GD) of the ITBP. The entire process shall be completed within 12 weeks from today. Order dasti.”

8. According to the petitioners, the promotion process has not even been initiated notwithstanding the aforesaid order dated 26th August, 2015. It, however, appears that the promotion process has not been initiated by reason of the pending Special Leave Petition. In the order dated 26th August, 2015 in Bhanu Pratap Singh’s case, there is no reference to any Special Leave Petition. It appears that the attention of the Division Bench was not drawn to the Special Leave Petition against the common judgment and order dated 25th May, 2015.

9. The respondents/Authorities have subsequently taken out an application in the Supreme Court in the Special Leave Petition being IA no.7-8/2016, seeking permission of the Supreme Court to implement the common final judgement and order dated 25th May, 2015 passed by this Court, subject to outcome of the Special Leave Petition.

10. The aforesaid application is still pending before the Supreme Court and we are informed that it is likely to be listed on 6th October, 2016. It hardly need be mentioned that the common judgment and order will affect the seniority position and have an impact on the promotion process.

11. In view of the pending application in the Supreme Court, we are of the view that this writ petition is premature. No order ought to be passed by us at this stage with regard to promotions. Needless to mention that as and when the DPC takes place, all the eligible candidates will be considered and if the petitioners are eligible, they will also be considered. Accordingly, writ petition is dismissed.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

SEPTEMBER 22, 2016
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