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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10714/2016

UNION OF INDIA & ANR

..... Petitioners

Through: Mr. Ruchir Mishra & Mr. Mukesh
Kumar Tiwari, Advocates.

versus

MURLIDHAR SHARMA & ORS

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC for R-
2 & 3.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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11.11.2016

CM No.41948/2016 (exemption)

Exemption allowed subject to all just exceptions.

W.P.(C) 10714/2016 & CM No. 41947/2016

The stand of the petitioner, i.e., the Union of India and Deputy Director General (Establishment), Central Reserve Police Force (CRPF) is unacceptable, if not farfetched. The respondent, a constable in Central Reserve Police Force, was sent on deputation to the Intelligence Bureau as Security Assistant. The respondent applied for absorption in the Intelligence Bureau, based on recommendations of absorption Committee of the Intelligence Bureau.

The petitioners had furnished their no objection certificate, *albeit* with the condition that the respondent should be absorbed to the post of Head Constable and not on the post of Constable, as the respondent in the meantime was granted proforma promotion to the post of Head Constable.

Interestingly, the respondent has stated that he is ready and willing to be absorbed at the post of Constable in the Intelligence Bureau. The petitioners instance and refusal is apparently incongruous, for it overlooks the concurrence expressed by the respondent and the Intelligence Bureau. The stand and stance of the petitioners is unjust, unfair and most inequitable. We cannot appreciate the irrational and misplaced condition put by the petitioner.

Reference to the Office Memorandum dated 1.9.2010 does not further the case of the petitioner. This Memorandum states that the absorption would be considered in the rank in which the officer is officiating. It incorporates a condition for the benefit of the employee. It may not apply, when the employee opts and would accept a lower post. Moreover, the respondent was granted proforma promotion, and had not joined or officiated.

The tribunal has also noted from paragraph 8.6 (a) of the OM dated 30.11.2012. The paragraph postulates that if Grade Pay of the officer in the parent cadre becomes higher after getting proforma promotion than that on the deputation post, he may be allowed the pay in the pay band and the grade pay of the post to which he is promoted, if he so opts. The respondent has not opted for the same.

The writ petition has no merit and is accordingly dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

NOVEMBER 11, 2016/ssc