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

+ **W.P.(C) 5196/2015, CM No.9442/2015**

UNION OF INDIA

..... Petitioner

Through: Mr. J. S. Bhasin with Ms. Rashmi Priya,
Mr. Nishant Shokeen &
Mr. Inderjeet Singh Adv.

versus

MOHINDER SINGH

..... Respondent

Through: Mr. O.P. Gehlaut, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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14.03.2016

Having heard counsel for the parties we are not inclined to interfere with the impugned order dated 13.12.2013 passed in OA No.1692/2011 and order dated 23.12.2014 passed in RA No.98/2014.

The contention of the petitioner/Union of India is that one Mr. Rajinder Kumar was senior to the respondent and as he was facing disciplinary proceedings, sealed cover procedure was adopted for the ninth vacancy in the entry grade of DANICS for the year 2001. Mr. Rajinder Kumar was subsequently exonerated and therefore became eligible for promotion for the ninth vacancy in the year 2001.

Learned counsel for the respondent submits that the said

Rajinder Kumar had faced two departmental proceedings. In the second departmental proceedings, Rajinder Kumar was exonerated, but in the first departmental proceedings vide order dated 11.7.2003, Rajinder Kumar was awarded penalty of reduction of pay by one stage in the time scale for two years without cumulative effect. In these circumstances, Rajinder Kumar was not found fit/eligible for promotion for the ninth vacancy in the year 2001 by the Departmental Promotion Committee, in its meeting held on 20th August, 2004. The Regular panel prepared for Scheduled Casts vacancies for the year 2001 specifically included and named the respondent i.e. Mohinder Singh as the candidate qualifying and fit for promotion for the ninth vacancy.

We find that the contention raised by the learned counsel for the respondent is factually correct as per Annexure 16 (relevant page 101). The Regular Panel for Scheduled Castes candidates for nine vacancies arising in the year 2001 is as under:-

<i>Sl.No.</i>	<i>Name</i>	<i>Date of Birth</i>	<i>Name of UT where employed</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>1.</i>	<i>Nand Lal Singh</i>	<i>20.04.1950</i>	<i>Delhi</i>
<i>2.</i>	<i>Dharam Pal</i>	<i>12.04.1949</i>	<i>Delhi</i>
<i>3.</i>	<i>Babu Lal</i>	<i>21.03.1949</i>	<i>Delhi</i>
<i>4.</i>	<i>Sita Ram</i>	<i>15.07.1952</i>	<i>Delhi</i>
<i>5.</i>	<i>Bishan Chander</i>	<i>30.04.1954</i>	<i>Delhi</i>

6.	<i>Bajrang Lal</i>	<i>05.01.1950</i>	<i>Delhi</i>
7.	<i>Har Prasad</i>	<i>02.03.1951</i>	<i>Delhi</i>
8.	<i>V.P.Singh</i>	<i>15.07.1952</i>	<i>Delhi</i>
9.	<i>Mohinder Singh</i>	<i>09.07.1950</i>	<i>Delhi</i>

Thus, Mohinder Singh was empanelled for the ninth vacancy. Rajinder Kumar's name was not included in the said panel, as the sealed cover procedure was not followed and adopted. The reason, it is apparent, was that Rajinder Kumar had suffered minor penalty vide order dated 11.7.2003 of reduction of pay by one stage in the time scale for two years without cumulative effect. In these circumstances, it was immaterial, whether Rajinder Kumar was facing departmental proceedings in another matter.

Learned counsel for the petitioner is right that the first impugned order of the Tribunal dated 30.12.2013 in OA No.1692/2011 did not deal with the said facet and factual matrix but we find that this issue was specifically raised and answered in the order dated 23.12.2014 passed in the Review Application No.98/2013. Paragraph 12 of the said order records that DPC in its meeting held on 20th August, 2004, had empanelled nine candidates/employees for the nine Scheduled Castes vacancies. Mohinder Singh was empanelled at serial No.9, while Rajinder Kumar's name did not figure in the said panel, as he had suffered punishment of reduction of pay for two years without cumulative effect vide order dated 11.7.2003.

No other contention or submission is raised before us by the

counsel for the petitioner.

In view of the aforesaid discussion, we do not find any merit in the present writ petition. The writ petition is dismissed. No costs.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MARCH 14, 2016/ak