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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10781/2015 & C.M.27710/2015

DEEPAK KUMAR

..... Petitioner

Through: Mr. D.S. Kauntae, Advocate

Versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Barkha Babbar and Ms.
Dipanjali Tyagi, Advocates with
Col. Ramanjit Singh Kampani for
respondent-UOI

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

16.02.2016

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1. The petitioner seeks issuance of a writ of mandamus to the respondent No.2-Directorate General of Medical Services-(3D) & (3E), Integrated HQ of Ministry of Defence (Army), to issue formal transfer orders for his induction to proceed with the next immediate Indian contingent being inducted into the U.N. Peace Keeping Mission in the light of the final selection on 10th May, 2014.

2. Learned counsel for the petitioner submits that the petitioner had become a Junior Commissioned Officer/Naib Subedar in the year 2009, after obtaining Special Departmental Qualification of a Nursing Technician. 24 vacancies of Nb Sub (Nursing Technician)

were released by the Integrated Headquarters, Ministry of Defence (Army) in the year 2013-14 and the petitioner was screened by the Board of Officers and was placed at Serial No.23 in the list of selected candidates. Out of the 24 selected candidates, 18 Nb Sub (Nursing Technician) were detailed for U.N. Mission by the Integrated Headquarters, Ministry of Defence (Army) and the remaining selected candidates from Serial Nos.19 to 24 were not detailed to proceed on U.N. Mission due to the expiry of the validity of the panel of selected JCOs/ORs, on 31st March, 2015.

3. Again, on 21st January, 2015, 18 vacancies for Nb Sub (NT) for U.N. Mission for the year 2015-16 were released by the Integrated Headquarters, Ministry of Defence (Army) and a screening was conducted in the rank of Naib Subedar (NT) as per the seniority list obtained from the Promotion Section. In the meantime, the petitioner was promoted to the rank of Sub (NT) w.e.f. 1st September, 2014. In the year 2015-16, no vacancy for Sub (NT) was released by the Integrated Headquarters, Ministry of Defence (Army) and resultantly, the petitioner was not screened by the Board of Officers in the year 2015-16 as there was no provision for screening Sub (NTs).The petitioner's representation dated 4th May, 2015 was responded to by way of Army Medical Corps Record

Office's signal on 25th May, 2015.

4. At the hearing, learned counsel for the petitioner has relied on Record Office Instructions (ROI) of 1st January, 2014, to highlight that promotion announced in respect of the selected candidates for U.N. Mission will not stand in their way to pick up higher rank and they will remain eligible to proceed to the U.N. Mission. It has been submitted that this clarifies the position that promotion of the petitioner to the rank of Subedar (NT) will not preclude him for detailment for the U.N. Mission. Secondly, learned counsel states that respondents had sent four Junior Officers out of the Selection List of 24 candidates, whose names figured at serial Nos. 20, 21, 22 & 24, while ignoring those placed at serial nos. 19 & 23, including the petitioner, who is at serial no.23.

5. On the contrary, learned counsel for the respondents had drawn our attention to the Record Office Instructions No.26/2014 relating to selection/posting of personnel on foreign assignments to point out that the said selection is made on an annual basis and no reserve panel is drawn. Our attention has also been drawn to the Signal dated 31st July, 2015, filed by the petitioner along with the rejoinder to point out that out of the panel of 24 candidates, 18 of them were detailed for the U.N. Mission and the remaining ones

could not be detailed due to a delay in de-induction/over stay in U.N. Mission and fresh U.N. Mission Panel for 2015-16, is under process. She refutes the contention of the other side that out of 24 candidates drawn in the Selection List, those at serial nos. 20, 21, 22 & 24 have been sent out of turn and clarifies that the candidates at the above serial nos. were subsequently selected in the List of 18 candidates prepared for detailment in the year 2015-16 and they were placed at serial nos. 13, 14, 10 and as reserve candidate No.5 respectively whereafter only those upto the selected eleven have been detailed.

6. It has been specifically pointed out by the respondents' counsel that since Naib Subedar (NT) Raj Kumar Malik has not been detailed for any type of U.N. Mission till date, the petitioner cannot claim any parity with him. It has also been stated that the petitioner was promoted to the rank of Sub (NT) w.e.f. 1st September, 2014, and no vacancy for Sub (NT) was released by the Integrated Headquarters, Ministry of Defence (Army) in the year 2015-16 and so, he was not screened by the Board of Officers as there is no provision for screening Sub (NTs). Thus, it has been submitted that there is no substance in this petition.

7. After having heard the learned counsel for the parties and on

perusal of the material on record, we find that the panel for detailment to U.N. Mission is drawn on an annual basis and since there was delay in de-induction/over stay in U.N. Mission, which cannot be attributed to the respondents, the petitioner could not be detailed for U.N. Mission in the year 2014-15. In the succeeding years, the petitioner became ineligible as he had been promoted to the rank of Subedar (NT) in the interregnum. Records Office Instructions (ROI) relied on by the petitioner does not advance his case as promotion to higher rank will relate to the year in question and would not enure to the benefit of the petitioner for the succeeding years as detailment to U.N. Mission is made on an annual basis.

8. We are, therefore, of the considered view that there is no substance in this petition, which is accordingly dismissed along with the pending application, while leaving the parties to bear their own costs.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 16, 2016

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