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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 10111/2016

Date of decision: 18th April, 2017

MILAP CHAND

..... Petitioner

Through Ms. Jyoti Singh, Sr. Advocate with
Ms. Tinu Bajwa and Mr. Amandeep Joshi,
Advocates.

versus

UNION OF INDIA & ORS

..... Respondent

Through Mr. Sanjib K. Mohanty, Sr. Panel
Central Government Counsel for the UOI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

SANJIV KHANNA, J. (ORAL)

Milap Chand has filed the present writ petition with the following
prayers:-

“In view of facts and circumstances stated above, it is most
respectfully prayed that this Hon’ble Court be pleased to:-

(i) Issue a writ of certiorari quashing the respondent’s
impugned letter dated 24.09.2015 vide which they have
rejected the petitioner’s representation dated 22.07.2015;

(ii) Issue a writ of Mandamus directing the
respondents to depute the petitioner for deputation to
Embassy of India, Nepal, for which the respondents have
already intimated to the petitioner about his said selection;

(iii) Issue any other writ/direction that this Hon'ble Court Pass may deem fit and proper in the facts of this case.”

2. The petitioner had applied and submitted willingness to go on deputation to Haiti in the 6th and 7th tenure corresponding to years 2013 and 2014. The petitioner did not figure high up in the merit list for deputation and was placed in the reserved panel for Haiti. As the selected candidates had proceeded on deputation and there was no vacancy, the petitioner was not sent to Haiti. To this extent there is no dispute or debate.

3. By office order dated 31st January, 2015, the petitioner and others, who were waitlisted for Haiti, were informed that they had been selected for deployment at the Embassy of India, Kathmandu (Nepal) for a period of two years on transfer basis as replacement. Chandrakant Mani and Abinash Kumar, who were higher up in the waiting list, were sent to the Embassy of India at Kathmandu, Nepal in Phase-IX. The petitioner and 14 others were to go the Embassy of India at Kathmandu, Nepal in Phase-X.

4. The petitioner thereupon had attended a two week orientation course with effect from 16th February, 2015 and was asked to report at GBS Mahipalpur Concentration Centre for preparation of passport etc. However, before the petitioner and six others could be sent/deployed at the Embassy of

India at Kathmandu, Nepal, the respondents issued office order dated 24th September, 2015, which reads as under:-

“It is submitted that following CISF personnel have submitted applications addressed to DG/CISF regarding non deployment for deputation to EOI Kathmandu (Nepal) as replacement:-

SL	Rank	Name	Unit
1	SI/Exe	Ashok Kumar	GBS New Delhi
2	CT/GD	Girja Shankar Yadav	ASG Kolkata
3	CT/GD	Ajay Kumar	SSG G. Noida
4	CT/GD	Ratnesh Kumar Singh	SSG. G. Noida
5	CT/GD	Nand Kishore Saw	DTPS Durgapur
6	CT/GD	Milap Chand	SSG G. Noida
7	CT/GD	Rabindra Kumar	ASG Bangalore

2. The above mentioned personnel were inter-alia kept in reserve panel in which total 16 CISF personnel were available as per this Directorate message No. (173) dated 31.01.2015 and eve No. (368) dated 05.03.2015. As this panel was drawn from rest of candidates from 6th Tenure FPU Haiti, their cases were reviewed by the Competent Authority and decided to call for fresh nominations for exclusively selection of candidates for EOI & CGI, Nepal, as earlier shortlisted were selected on 27.07.2013, which does not have any relevance because subsequently detailment of 7th Tenure FPU Haiti was also finalized. Further, it was a very old panel and more than 02 years have lapsed. Therefore, this panel of 16 CISF personnel has been treated as cancelled by the Competent Authority.

3. The above CISF personnel may please be informed accordingly. ”

5. The aforesaid order gives reasons as to why the petitioner and six others could not be deployed or sent on deputation to the Embassy of India at Kathmandu, Nepal. Firstly, the petitioner and six others were drawn from

the panel of candidates for the 7th tenure at Haiti. The selection was not for posting/deputation at the Embassy of India at Kathmandu, Nepal. Secondly, the panel was an old one and more than two years had lapsed. In these circumstances, the authorities had decided that fresh nominations should be called for selection for the Embassy of India at Kathmandu, Nepal and the earlier panel should be treated as cancelled.

6. We do not see any reason to interfere with the impugned order dated 24th September, 2015. It is apparent that the personnel, who were sent on deputation abroad, are entitled to benefits in the form of extra remuneration etc. These postings are sought for and personnel willing for posting compete with each other for selection. Willingness has to be expressed by the personnel for each such avenue/posting. Personnel may not want to go to Haiti, but could be willing to be posted in Kathmandu, Nepal, or other locations. Perhaps the respondents had erred when they had passed the order dated 31st January, 2015, for posting from the reserved panel for Haiti to Kathmandu, Nepal. This order had deprived other personnel from competing with those in the reserved panel. The selection should be transparent and open. The second reason given by the respondents is also relevant as the selection for Haiti was made in July and August, 2013 and

was for corresponding years 2013 and 2014. It is not urged and argued that the reserved panel as per rules or general notification is valid till each personnel in the waiting list is given a posting on deputation abroad.

7. Learned senior counsel appearing for the petitioner has submitted that two persons, namely, Chandrakant Mani and Abinash Kumar were sent to the Embassy of India at Kathmandu, Nepal in Phase-IX. This is correct. However, the explanation of the respondents is that the said persons were higher up in the reserved list and, therefore, the petitioner cannot have any grievance. Subsequently, the respondent authorities corrected the error and mistake made, and have withdrawn the office order dated 31st January, 2015.

8. The petitioner has also relied upon the order dated 18th May, 2016, passed in W.P. (C) No.10209/2015, *Ashok Kumar Vs. Union of India and Ors.* This order, we would observe, is a consent order, which was passed on the basis of the statement made by the counsel for the respondents, who had stated that without going further into the controversy and keeping in mind that one vacancy in the rank of Sub-Inspector was kept reserved in terms of the order dated 13th January, 2016, the respondent had agreed to deploy Ashok Kumar for duty at the Embassy of India at Kathmandu, Nepal. The fourth paragraph of the order records that the said order was being passed in

the peculiar fact and circumstances of the case and would not be treated as a precedent.

9. In case the plea of the petitioner is to be accepted, then we would have to pass similar and identical orders in cases of other candidates/personnel in the reserved panel for Haiti. This we do not think would be appropriate and proper as it would adversely affect the rights of other personnel, who would be willing for the said posting and have to be considered for selection.

10. Counsel for the petitioner in the end submitted that the petitioner has been deprived of this opportunity to apply for and get selected as the petitioner has relied upon office order dated 31st January, 2015. We do not find any merit in the said contention, primarily based upon principle of promissory estoppel and doctrine of legitimate expectation. The order dated 31st January, 2015 was passed, when the petitioner had already crossed the age bar for being posted abroad. The petitioner has not claimed that between 31st January, 2015 and 24th September, 2015, the respondent authorities had issued any office order/notification for posting in a foreign country to which the petitioner had not applied in view of office order dated 31st January, 2015. Pertinently, as noticed above, the petitioner had become

overage on 2nd July, 2014. This means that the petitioner could not have applied for posting abroad on or after 2nd July, 2014. Counsel for the petitioner submits that the petitioner may be permitted to apply for age relaxation for future selections. We do not make any such observation, for no rule of relaxation is pointed out. However, in case there is any provision for age relaxation, the petitioner's case would be considered in accordance with law.

11. In view of the aforesaid discussion, the writ petition is dismissed.

SANJIV KHANNA, J.

ANIL KUMAR CHAWLA, J.

APRIL 18, 2017
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