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

+ **W.P.(C) 5988/2017**

GROUP CAPTAIN NATARAJ PAUL (RETD.) Petitioner

Through: **Mr S. S. Pandey with Mr H. S. Tiwari, Advocates.**

versus

UNION OF INDIA & ORS

..... Respondents

Through: **Mr Rahul Sharma, Sr. Standing counsel for UOI with Mr C. K. Bhatt, Advocate.**

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.07.2017

VIBHU BAKHRU, J

1. The petitioner - who has retired from the services of the Indian Armed Forces - has filed the present petition impugning an order dated 24.01.2017 (hereafter 'the impugned order') passed by the Central Information Commission (CIC). It is the petitioner's case that he was placed at no.10 of the reserve list for consideration by a Promotion Board. According to the petitioner, all officers from the main list except three were promoted. Those three officers were, at the material time, overseas on deputation. However, their vacancies were not filled up and were reserved to be filled up on their return. The petitioner has some grievance with regard to this procedure also but that is not a subject matter of the present petition. The petitioner also

states that officers who in the reserve list were ahead of him were also promoted.

2. The petitioner claims that on return of the three officers, two were promoted but one was found to be in low medical category and, therefore, he was denied the promotion. The petitioner further states that vacancy that was kept for the officer who was declared as low medical category (Gp. Capt. P.I. Murlidharan) was subsequently filled by an officer of the reserve list. The petitioner states that nine officers from the reserve list had already been promoted and he believes that an officer placed below his position in the reserve list was promoted to fill up the vacancy that remained on account of non promotion of Gp. Capt. P.I. Murlidharan on account of his being medically unfit.

3. In the above context, the petitioner filed an application under the Right to Information Act, 2005 (hereafter 'the Act') seeking the following information:-

- “(1) Please provide copy of the initiating note/letter/application or any other form of communication by Gp Capt. Malhotra/Gp Capt Bali or any other officer or appointment regarding reserving 3 vacancies of Gp Capt to Air Cmde PB 2003 for officers on foreign posting during 2003-2004; who were on the Main List of PB 2003 (Gp Capt to Air Cmde).
- (2) What was the reason for reserving these vacancies of PB 2003 visavis PB 2004 (Gp Capt to Air Cmde)
- (3) Remarks of civilian offr dealing with Gp Capt and above, ACAS (PO), AOP and CAS on item (1) above.
- (4) Can you provide a copy of M/List and Reserve List of PB 2003 (Cp Capt) to AirCmde).

- (5) Who from the Reserve List of 2003 was given the rank of Air Cmde which Gp Capt Murlidharan (med unfit for promotion) was to wear on his return from ISLAMABAD.
- (6) Why was Gp Capt N Paul (13601), who was originally No.10 and on RL No.1 by 31 Mar 2004 not given the rank of Air Cmde? Upto RL No.9 was cleared for the rank of Air Cmde from PB 2003.”

4. The said information was denied by the CPIO by a letter dated 20.03.2015. The petitioner appealed against the same to the First Appellate Authority (FAA), which was also dismissed by an order dated 29.04.2015. This led the petitioner to file a second appeal before the CIC, which was disposed of by the impugned order.

5. A plain reading of the impugned order indicates that the CIC had considered the submissions advanced by the petitioner and had passed the impugned order; the operative part of which is set out below:

“In view of the foregoing, Commission directs the CPIO to provide relevant and available information regarding how the vacancy of the particular Promotion Board under reference was treated or was utilized by Dte. of Pers., Air HQ(VB). In doing so, if the records pertaining to this information contains name, details of any third parties, the same should be adequately blacked out or relevant portion can be extracted as per the provisions of Section 10 of the RTI Act and be provided to the Appellant.”

6. This Court finds no reason to differ with the view expressed by the CIC that notings and deliberations of the Promotion Board are confidential and third party information; more so, when the same is not the subject

matter of contest in the present petition. The limited grievance articulated by the learned counsel for the petitioner is that redacting of the name of the officer who was promoted to the vacancy in question (stated to be the vacancy that remained on account of non promotion of Gp. Capt. P.I. Murlidharan) defeats the object of seeking the information. The petitioner, essentially, wants to confirm whether an officer below his position in order of the reserve list was promoted. This Court finds no reason why this information should be denied to the petitioner and, accordingly, the impugned order is modified to the limited extent of further directing the respondents to disclose the name of the officer who was promoted to fill the vacancy in question and whether he was below the position of the petitioner in the reserve list.

7. The petition is disposed of with the aforesaid directions.

8. Order *dasti*.

JULY 18, 2017
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VIBHU BAKHRU, J