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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8356/2017 & CM 34472/2017**
Y S KHANGAROT Petitioner
Through: Mr.Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: Mr.Rajesh Kumar, Mr.Atul Krishna,
Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **19.09.2017**

The petitioner Y.S Khangarot, in this writ petition, purportedly impugns recasting of the seniority positions vide order dated 27th January, 2016 pursuant to the judgment of the Supreme Court dated 6th November, 2012 in Civil Appeal No. 2133-2134/2004 titled ***Rohitash Kumar & Ors. vs. Om Prakash Sharma and Ors.***

What in fact, the petitioner seeks to challenge and question is his seniority at the bottom of the list of candidates who had undergone training as Assistant Commandant (DE) in Course no.24.

The petitioner had joined the said course, but had to drop out, having suffered a stress fracture in his right leg. He had undergone training with the next batch in Course no. 25.

The petitioner vide letter dated 21st June, 2001 was informed that he would be placed at the bottom of the 24th batch course and

would not be granted seniority on the basis of aggregate marks secured in the Selection Examination and the training course.

Thereafter, the Selection list of Group A officers was published on 14th August, 2001 affirming and placing the petitioner at the bottom of candidates in the training Course no.24.

The petitioner had then raised grievance and represented against the date of joining as 6th March, 2000 when he had joined the training Course no.25, instead of 17th July, 1999, when he had joined the training Course no. 24. Second grievance was that the petitioner's inter-se seniority in the 24th batch should be fixed on the basis of aggregate marks in the Selection Examination and the training course. Reliance was placed on the BSF Seniority Rules, 1978.

The respondents partly accepted the representation of the petitioner vide order dated 21st June, 2005, as the date of joining was treated as 5th July, 1999, instead of 6th March, 2000. However, the prayer of the petitioner for re-fixation of inter-se seniority on the basis of the aggregate marks secured in the selection process and the training course was rejected. The petitioner's seniority as junior most in the Course/ batch No.24 was re-affirmed.

On the basis of the aforesaid seniority position and seniority list published in 2001, other batch mates of the petitioner have been promoted to higher posts as per the Recruitment Rules.

It will be impudent and injudicious for this Court to re-open the stale issue of seniority after more than 12 years. The petitioner has impleaded 28 private respondents who would be adversely affected if the prayer of the petitioner is accepted. Seniority list which has

prevailed and acted for a long period should not be disturbed after it has gained finality. Any interference at a belated stage, after more than a decade, would create a mess and chaos.

The letter/order dated 27th January, 2016 refers to the decision of the Supreme Court in ***Rohitash Kumar and Ors***(supra) which decision pertains to a different issue and not the issue which has been referred to above i.e. fixation of the seniority of the petitioner in the bottom of Course/batch No.24th as the petitioner had to leave the course in between and had completed the training with the Course No.25th. This was not the subject matter or the issue examined by Supreme Court in ***Rohitash Kumar and Ors*** (supra) which relates to interpretation of the Proviso to Rule 3 of the 1978 Rules. ***Rohitash Kumar and Ors.***(supra) would not in any manner ensue to the benefit of the petitioner nor would the decision constitute a fresh cause of action to enable the petitioner to agitate settled issue in question.

The writ petition is dismissed with no order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

SEPTEMBER 19, 2017
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