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

+ W.P.(C) 10564/2018 & C.M. No.41200/2018 (exemption)

RAJU PAL

..... Petitioner

Through Mr.Ranjan Roy with Mr.Yogendra
Nath Srivastava, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through Mr.Vivek Goyal, CGSC with
Mr.Sushil Kumar Pandey, Adv (GP).

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **04.10.2018**

1. This is a second round of litigation initiated by the petitioner based on the very same cause of action. Earlier hereto, the petitioner had filed W.P.(C)No.1029/2017, challenging the final list dated 09.01.2017 of candidates selected by the respondents to the post of Head Constable/Constable (General Duty) in the CRPF, under the Sports Quota. After examining the grievance of the petitioner to the effect that one of the candidates, who had been disqualified during the medical test, had wrongly been selected by the respondents and in case the said candidate had not been selected, the petitioner might have qualified, the Division Bench had dismissed the said writ petition vide order dated 13.02.2017 with the following observations:-

“ It is well settled that the onus lies on him who alleges to substantiate the allegations. The petitioner has filed the writ petition alleging irregularities in the selection. It is, therefore, for

him to establish that there have been irregularities. It is not for this Court to call upon the respondents to refute the contentions of the petitioners and then produce materials to substantiate their defence. It is also not for this Court to make a roving, fishing enquiry to find out whether the selection process was in accordance with law or not. Of course, if a prima facie case of illegality or irregularity had been made out by the petitioner, the situation might have been entirely different, for the respondents would have to establish that the selection was in accordance with law. That is not the case here.”

2. After a year and a half, the petitioner has again approached this Court in respect of the very same final list dated 09.01.2017 of candidates selected to the post of Head Constable/Constable (General Duty) in the CRPF under the Sports Quota (Volleyball). This time, learned counsel for the petitioner relies on a document at page 49 of the paper book entitled “*Recruitment of Meritorious Sports Person 2015- List of Selected Candidates*” to state that under the category of Volleyball, there were a total of 10 vacancies, out of which 2 vacancies were for the post of Head Constable (General Duty) and 8 vacancies were under the post of Constable (General Duty). However, only one candidate has been selected by the respondents in the category of Head Constable (General Duty) and 8 candidates have been selected in the category of Constable (General Duty); totalling to 9 selections against 10 vacancies, thus leaving one vacancy available.

3. It is now the grievance of the petitioner that he should have been allotted the one available vacancy on the post of Head Constable. The question of the petitioner being allotted a vacancy in the post of Head Constable (General Duty) under the Sports Quota

(Volleyball), does not arise for the simple reason that he had applied for appointment to the post of Constable and the list of selected candidates at page 49 reveals that all the 8 candidates who were selected as Constable, had been placed above the petitioner in the order of merit whereas the petitioner was admittedly placed at serial no. 10. Therefore, he cannot claim that he should be appointed on the vacancy of a Head Constable.

4. This being the position, we do not find any merit in the present petition, which is accordingly dismissed in *limine*, alongwith the pending application.

HIMA KOHLI, J

REKHA PALLI, J

OCTOBER 04, 2018

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