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

+ **W.P.(C) 8650/2017 & CM No. 35547/2017**

KADAM DATTATRAY RAMDAS Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

DG CISF AND ORS Respondents

Through: Ms. Manisha Agarwal Narain,
Advocate with Mr. Sanjay Kr,
Inspector, CISF.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **25.10.2018**

1. The facts that arise for consideration in the present petition have been succinctly set out in the counter affidavit filed by the Senior Commandant of the CISF Unit, IGI Airport New Delhi as under:

“4. The petitioner, while posted at CISF Unit ASG Goa, had applied for the post of ASI/Exe in CISF against the recruitment year 2010 through Staff Selection Commission. Subsequently he attended written examination, physical test, interview, medical examination and selected for the Post of ASI/Exe against the recruitment year 2010 through SSC/Western Region. But, his name was erroneously shown as Scheduled Caste (SC) Category in the result published by Staff Selection Commission, which was later amended vide SSC letter dated 12.04.2012 (Annexure R1). The petitioner was issued with an offer of provisional appointment for the post of ASI/Exe vide Sr. Commandant, CISF RTC Arakkonam letter No. (4751) dated 07.08.2014

(Annexure R2) and finally he was appointed as ASI/Exe in CISF on 30.08.2014. Accordingly, he was allotted PSL No. 13367-A at par with seniority of 2010 vide FHQrs letter dated 04.02.2015 (Annexure R3).”

2. The grievance of the Petitioner is that the mistake having been committed by the Staff Selection Commission (‘SSC’), the Petitioner was unfairly denied his posting as Assistant Sub-Inspector (‘ASI’) till 7th August 2014, whereas it should relate back to the actual date when he qualified in the selection, i.e. 6th January 2011, the date on which the results were announced by the SSC.

3. Learned counsel for the Respondent has drawn the attention of the Court to the communication dated 30th March 2017 addressed by the Assistant Commandant, Establishment in the Home Ministry to the Assistant General, CISF in PS Headquarters, Delhi on the representation made by the Petitioner. Paras 2 and 3 of the said communication reads as under:

“2. The case of No. 033470012 ASI/ Exe Kadam Dattatray Ramdas (PSL No. 13367-A) of CISF Unit IGI Delhi has been examined. The ASIs/Exe Upto PSL No. 14313 who have completed 6 years of service or more than half of such qualifying or eligibility service or two years whichever is less and have successfully completed his probation period in the rank of ASI/Exe as on 30.6.2016 (cut off date) as per provisions made in RRs of SI/Exe have been promoted to the rank of SI/Exe against the year 2017.

ASI/Exe Kadam Dattatray Ramdas assumed the charge of ASI/Exe on 20.8.2014 and not fulfilling the above eligibility criteria as on 30.6.2016. Hence he could not be promoted to the rank of SI/Exe

against the year 2017 along with his batchmates. This may be informed to the individual concerned accordingly.”

4. If the Petitioner’s result had been declared as indicated hereinbefore on 6th January 2011 itself, then even as per the criteria spelt out in the above communication, the Petitioner was qualified for being appointed as ASI from the same date as his batch mates. In other words, the Petitioner was entitled to be considered for appointment as ASI on the date of the initial announcement of the results by the SSC, i.e. 6th January 2011.

5. Additionally, the Court notes that in ***Union of India v. Sadhna Khanna AIR 2008 SC 860***, where the blame lay at the doorstep of the Department for making a mistake in declaring the Respondent qualified in the Assistant Grade examination, the Supreme Court clarified that the Respondent was entitled to succeed and the date of eligibility had to be counted from 1st July 1983, when the original offer of appointment was sent to her juniors.

6. Consequently, the Court accepts the prayer of the Petitioner and quashes the letters dated 30th March 2017 and 10th April 2017 issued by the Respondents and directs that the Petitioner be considered as having been appointed as an ASI from 6th January 2011 and further that he consequently, would be considered for the promotion to the post of Sub Inspector/Executive for the year 2017 vacancies along with his batch mates if otherwise found fit as per the relevant promotion policy.

7. Needless to say that the Petitioner will be given all consequential benefits on the basis of his being qualified to be appointed as an ASI from 6th January 2011.

8. The petition is allowed in the above terms. No order as to costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

OCTOBER 25, 2018

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