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

+ **W.P.(C) 76/2019 & CM APPL. 449/2019**

G. JAI SANKAR AND ORS. Petitioners

Through: Mr.Harpreet Singh, Advocate with
Ms. Suhani Mathur, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Ripu Daman BHardwaj, CGSC
for R-1/UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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08.01.2019

1. The three Petitioners were appointed to the post of Assistant Commandant (GD) with the clear stipulation that their appointments will be subject to the outcome of W.P.(C) 7941/2015 (*Inspector Srishty Kumar and Ors. v. Union of India and Ors.*) pending before this Court. The aforementioned W.P. (C) 7941/2015 was decided by this Court on 13th September 2017 accepting the pleas of the said Petitioners who were admittedly higher in the merit list than the present Petitioners. It was stated in the operative portion of the said judgment that in case those Petitioners were higher up in the merit list “they would be issued an offer of appointment letters in accordance with law and those lower down in the merit list would have to forgo their appointments”.

2. It was further observed in para 41 “in case any party has any grievance, they would be entitled to challenge in question of non appointment or appointment of Petitioners resulting in deprivation of appointment etc in accordance with law”.

3. It appears that even after the decision in the aforementioned writ petition, the present Petitioners were issued confirmation letters and underwent the mandatory course of combat leadership which had commenced from 22nd October 2018 for promotion from the rank of Assistant Commandant to the post of Deputy Commandant.

4. The Petitioners are before this Court aggrieved by the impugned order dated 24th December 2018 passed by DIG (Pers), BSF which has been given in lieu of the judgment dated 13th September 2017 passed by this Court in W.P.(C) 7941/2015 and the three Petitioners have been reverted the previous rank Inspector (GD) with immediate effect.

5. Learned counsel for the Petitioners very fairly stated that the impugned order was consequential upon the judgment of this Court and that the appointment letters appointing the Petitioners as Assistant Commandant (GD) contained such a stipulation. Nevertheless, he prayed that a direction could be issued to the Respondents to create supernumerary posts to avoid reversion of the present Petitioners. He further submitted that the confirmation letters issued to the Petitioners even after the judgment dated 13th September 2017 did not contain any stipulation that such confirmation would be subject to the outcome of the writ petition.

6. The Court is unable to accept the above submission. The appointment letters of the Petitioners clearly mentioned in para 9 that it was subject to the outcome of W.P.(C) 7941/2015. The Petitioners were all along aware that not only their appointments as AC but any further orders issued would all be subject to the decision of this Court in W.P.(C) 7941/2015. It is therefore to no avail to now contend that since the confirmation letters did not contain such a stipulation, the reversion of the Petitioners was not called for. Further, this Court is unable to accept plea that a direction should be issued for creation of supernumerary posts. That is entirely in the realm of the policy of the Respondents keeping in view the exigencies of service. The Court is not inclined to issue any such mandamus to the Respondents.

7. The petition is accordingly dismissed and the pending application is also disposed of.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 08, 2019

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