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

+ **W.P.(C) 9776/2019**

RAM NARAYAN CHOUDHARY Petitioner

Through Mr. Ankur Chibber, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through Mr. Nikhil Goel, Advocate for R-1/UOI with Mr. Dushyant Sarna and Mr. Piyo Harold, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **22.10.2019**

1. The Petitioner, who was appointed as an Assistant Commander in the Central Reserved Police Force ('CRPF') on 1st November, 2004, has filed the present petition seeking the quashing of the order of the DIG (Pers), CRPF dated 25th July, 2019, rejecting the Petitioner's representation to conduct a review DPC in light of the order dated 30th December, 2018 upgrading his Annual Performance Appraisal Report (APAR) for the period from 1st April, 2014 to 29th November, 2014, from "Good" to "Very Good" and expunging certain adverse remarks against him in the APAR for the said period. The Petitioner also prays for a direction to the Respondents to conduct a review DPC in view of the above order dated 30th December, 2018.

2. The prayers in the present petition stand covered by the decision of this Court dated 19th August, 2015 in W.P.(C) 3391/2015 (*R.S. Bharti v. Union of India*). Even there, identical to the facts in the present petition, the Petitioner, who was an ITBP officer, had been denied the constitution of a Review DPC for considering him for promotion to the next higher grade, despite the fact that the adverse comments in his Annual Confidential Report (ACR) were expunged. In those circumstances, the Court granted the relief prayed for by the Petitioner, observing as under:

“4...The facts on record clearly disclose that (a) the adverse remarks recorded in the petitioner's ACR for the year 2003-2004 were expunged – although by an order of 11th April, 2014; (b) the expunction order has not been revoked and remains in force. In these circumstances given that the authority of the Superior officer i.e. Director General to order the expunction was never questioned and rather the merits of the expunction itself were sought to be gone into by the Central Government, the claim for promotion and consequential seniority could not have been denied. In other words, this court is of the opinion that once the adverse comments which constituted the stumbling block and impediment to the petitioner's promotion were removed, the logical corollary i.e. setting up or constitution of the review DPC was necessary. In denying the latter part, the Central Government and the respondents in our view acted arbitrarily.”

3. In that view of the matter, the Respondents are directed to constitute a Review DPC and consider the Petitioner's case for promotion to the higher grade from the date that his batchmates were promoted. In the event that the Respondents decide to promote the Petitioner, all consequential benefits will enure to the Petitioner. This process shall be completed within a period of 8 weeks from today.

4. The petition is disposed of in the above terms.

S.MURALIDHAR, J.

TALWANT SINGH, J.

OCTOBER 22, 2019 / tr