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

+ **W.P.(C) 6506/2016**

NIRAJ KUMAR

..... Petitioner

Through: Mr.Ankur Chhibber, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Manish Agarwal, Advocate along
with Mr.Anil Thakur, AC Law CRPF
& Mr.Deepak Kumar, SI CRPF.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER
20.03.2019

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1. The Petitioner who is at present an Assistant Commandant ('AC') with the CRPF has approached this Court for a direction to Respondents to treat him as being appointed in the 42nd batch instead of the 43rd batch i.e. the date on which the batch-mates of the Petitioner who had qualified in the Central Police Forces ('CPF') 2002 examination were appointed.

2. The background facts are that in 2002 the Petitioner applied for the post of Sub Inspector/General Duty ('SI/GD') in the CPF as a Scheduled Caste ('SC') candidate. On being successful in the examination, the Petitioner was appointed as SI in the Central Industrial Security Force ('CISF') on 7th November 2003. At this stage the Petitioner submitted his caste certificate,

which was accepted and acted upon.

3. While serving in the CISF, the Petitioner applied for the post of AC in the CPF pursuant to an advertisement issued by the UPSC in May 2008. After clearing the written exam, the physical efficiency test and the medical exam the Petitioner was called for his interview on 9th September 2009. Although he had already submitted his caste certificate, during the interview he was again asked to submit his original caste certificate in a different format. Awaiting the resubmission of his caste certificate, he was granted provisional candidature to the said post.

4. Meanwhile, the batch-mates of the Petitioner who had also qualified the same exam for the post of AC were issued letters on 4th May 2010 asking them to join the CRPF by 16th May 2010. The Petitioner was not issued such an appointment letter.

5. On 22nd May 2010 the Petitioner submitted his original caste certificate in the revised format. On 17th June 2010, an appointment letter was issued to the Petitioner. However, he was not allowed to join with the 42nd batch i.e. his original batch with which he had cleared the exam but was asked to join the force along with the 43rd batch. The Petitioner reported for training on 11th October 2011 and ultimately joined the CRPF with the 168th battalion at Bijapur, Chhatisgarh in November 2012. The Petitioner's technical resignation from the CISF was accepted on 3rd October 2011.

6. Relying on the decision dated 23rd May 2013 in WP(C) 6396 of 2012

(Neeraj Kumar Prasad v. Union of India), the Petitioner contends that as long as both the certificate produced at the first instance and the certificate produced in the revised format were genuine certificates, there was no reason for the Respondents not to consider the seniority of the Petitioner from the 42nd batch with whom he qualified.

7. Counsel for the Respondents on the other hand referred to an advice received from the UPSC dated 22nd/26th April 2010 on the certificate produced by the Petitioner initially. According to the UPSC, the said certificate was not acceptable for the following reasons:

- “1. Para 1 has been filled in by pasting slips at every slot;
2. Seems that there is variation in the sign of issuing authority at page 1 & 2;
3. The stamp has not been affixed below the sign. of issuing authority.”

8. What the above letter of the UPSC overlooks is the fact that the very same certificate commented upon by the UPSC was in fact accepted by the CISF when the Petitioner joined the CISF on 7th November 2003. Secondly, the Petitioner could not have been in control of how or in which format a certificate is issued. Be that as it may, when the revised certificate was issued in the format as required by the CRPF, the Petitioner's caste categorization remained the same as reflected in the certificate submitted at the time of joining the CISF. The original certificate and the certificate in the revised format were genuine certificates. This is not a case where the Petitioner has made a false claim of being an SC.

9. In the circumstances, the Court finds no difficulty in reiterating the legal position as explained in *Neeraj Kumar Prasad v. Union of India* (*supra*) that as long as the certificates affirmed the Petitioner's claim that he belongs to the very caste which he claims to belong to, there would be no justification in not acting on the certificate originally produced for the purposes of fixing the seniority of the Petitioner.

10. Accordingly, the impugned order dated 12th May 2016 issued by the Respondents rejecting the Petitioner's representation is hereby set aside. A direction is issued to the Respondents to re-fix the seniority of the Petitioner from the date of his batch-mates of the 42nd batch who joined the CRPF as ACs. While the Petitioner would not be entitled to any arrears of pay, for all other purposes including notional fixation of his pay and further seniority and promotion, his seniority will be reckoned from the date when his batch-mates the 42nd batch joined as ACs.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 20, 2019

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