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

+ **W.P.(C) 7474/2017**

ROHIT KUMAR MEENA

..... Petitioner

Through: Mr. J.S. Mishra, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Vinod Diwakar CGSC, Mr.
Kamal Kumar and Mr.Vishal Singh,
Advocates for R-1, 3 and 4.
Mr.Mohit Agarwal, Advocate for R-2.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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24.09.2019

1. The Petitioner who belongs to the 'Meena' caste, which is designated as a Scheduled Tribe (ST) in the State of Rajasthan, successfully cleared the written examination conducted by the Staff Selection Commission (SSC) on 4th October, 2015 for the post of Constable (General Duty) for the Central Industrial Security Force (CISF). He opted for the Delhi quota. It may be noted here that the Petitioner's father migrated to Delhi from Rajasthan many years ago.

2. From the counter affidavit filed by the Respondents, the admitted position is that the Petitioner did qualify in the written test but only because he produced the ST category certificate showing him to belong to the 'Meena'

Caste, he was not appointed. The stand of the Respondents is that the 'Meena' caste did not figure in the Central List of STs for the State of Delhi.

3. It must be noted here that the case of the Petitioner is that other candidates who obtained lesser marks than the Petitioner in the examination, had been shown as qualified in the merit list. The fact that the Petitioner got 61 marks, whereas the cut-off was 58 marks for the ST candidates has not been specifically denied by the Respondents.

4. The short question that therefore arises is whether the Petitioner can be considered to have qualified in the ST quota for Delhi, although Delhi itself does not recognize 'Meena' as ST?

5. The question appears to be no longer *res integra*. A Full Bench (FB) of this Court in a decision dated 12th September, 2012 in W.P.(C) 5390/2010 (***Deepak Kumar v. District and Session Judge***) has held that SCs and ST on migration from a State to a Union Territory (UT) would carry their reservation. The FB in coming to the above conclusion followed the decision of the Supreme Court in ***S. Pushpa v. Sivachanmugavelu (2005) 3 SCC 1***, which held that if a candidate's caste is notified as SC or ST in the resident state, then the benefit of reservation would extend to such candidate as regards posts in a UT.

6. Recently in its decision dated 10th January, 2019 in W.P.(C) No. 7804/2018 (***Rahul Kumar Meena v. Union of India***) this Court, in almost identical facts and circumstances, allowed the plea of the Petitioner in that case, also an ST, seeking appointment as Constable (GD) in the Delhi quota

having secured 61 marks in the examination. The same issue was involved in the said case, viz., whether relying on the ST certificate issued in Rajasthan the Petitioner could claim the benefit of his ST status in a UT like Delhi. The Court answered the said question in the affirmative and directed that the said Petitioner would be entitled to be appointed as Constable (GD) in the CISF which would be post allocated to him as per his merit in the ST category.

7. In the present case as well the Petitioner has secured 61 marks, which is above the cut-off for ST category candidates. This would entitle him to avail the benefit of the ST quota on account of his belonging to the 'Meena' caste, which has been notified as ST in the State of Rajasthan., and be appointed in the CISF as Constable (GD).

8. Accordingly, a direction is issued to the Respondent now to appoint the Petitioner as Constable (GD) in the CISF within a period of four weeks from today. Needless to mention, the Petitioner would be entitled to his salary, allowances and all other incidental benefits, including seniority, from the date on which he actually joins the CISF.

9. The petition is disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 24, 2019

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W.P.(C) 7474/2017

Page 3 of 3