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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 18th November, 2019

Pronounced on: 24th December, 2019

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W.P. (C) 11503/2018

PANKAJ YADAV

..... Appellant

Through: Ms. Archana Ramesh, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sushil Kumar Pandey, Sr. Panel
Counsel with Mr. Kuldeep Singh,
Advocate for R-1/UOI.

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W.P. (C) 11507/2018

SHRI MONU

..... Appellant

Through: Ms. Archana Ramesh, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Mahender Kr. Bhardwaj,
Mr. K.C. Dubey and Ms. Vinita Kumar
Advocates.

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W.P. (C) 11511/2018

RISHABH KUMAR SHARMA

..... Appellant

Through: Ms. Archana Ramesh, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Mahender Kr. Bhardwaj,
Mr. K.C. Dubey and Ms. Vinita Kumar
Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE TALWANT SINGH

J U D G M E N T

Mr. Talwant Singh, J.

1. The writ petition No. 11503/2018 is taken as a lead petition. Facts are similar in all three petitions hence the facts written in writ petition No.11503/2018 are elaborated here. All the three Petitioners have prayed for quashing and setting aside for list of selected candidates for paramilitary forces which was prepared after the examination conducted in 2017 and has sought a writ of mandamus by way of directions to the Respondents for allotment of Central Industrial Security Force ('CISF'). As per their choices and keeping in view the vacancies are available as per correct interlocution system for calculation and allotment of vacancies. The Union Public Service Commission ('UPSC') had conducted an examination followed by physical/medical test and interview in the year 2017 for the post of Assistant Commandant in Paramilitary Force for which 170 candidates were selected. So quota of Ex-servicemen Reservation was to be done @10% was of 17 vacancies. All the three Petitioners are Ex-servicemen, only six candidates for these 17 posts reserved for Ex-servicemen had qualified and instead of making the Paramilitary Force of their choice available to them, all of them were allotted one Paramilitary Force, hence the present writ petition has been filed by three such candidates. Main grudge of these Petitioners is interlocking rule of horizontal and vertical consideration was not complied with and if the said rule is applied correctly then these three candidates can be inducted in Paramilitary Force of their own choice. As per the Petitioners the said 17 vacancies have to go to the following four Paramilitary Force as

under:-

Name of Service	Total vacancies (Admitted fact (Annexure A-2)	Ex-Servicemen Quota @ 10% by calculation
BSF	28	2
CRPF	78	7
CISF	21	2
SSB	63	6
Total	190	17

2. Instead of appointing the three Petitioners in the force of their choice, they were put together at the end of the list and were given posting as under alongwith other Ex-servicemen

Name of Ex-servicemen and Status	Order of Merit	First Choice	Second Choice	Correct allotment as per choice/vacancy	Wrongly allotted haphazardly
Pankaj Yadav Petitioner1	165	CISF	SSB	CISF	SSB
Navin Non petitioner	166	CISF	BSF	CISF	BSF
Monu <u>Petitioner 2</u>	167	CISF	SSB	SSB	CRPF
Rishabh Kumar Sharma <u>Petitioner 3</u>	168	CISF	SSB	SSB	CRPF
Tikam Chand Non petitioner	169	CISF	SSB	SSB	CRPF
Vivekanand Prasad Non Petitioner	170	CISF	SSB	SSB	CRPF

3. The Petitioner protested against the wrong allotment of Paramilitary Forces for 5th October, 2018 to 20th October, 2018 by sending e-mail and letters and feeling aggrieved they have filed the present petitions.

4. A detailed counter affidavit has been filed on behalf of the Respondents mentioning therein that CRPF was nominated as Nodal Force to conduct the exam for the post of Assistant Commandant in the year 2017. UPSC published the notice for examination with last date for submission of application mentioned as 5th May, 2017 written examination of the said recruitment was conducted by UPSC on 23rd July, 2017, result was declared by UPSC on its website on 18th August, 2017 in which names of the Petitioners were mentioned as successful candidates total 1200 candidates have qualified the written examination out of which 1140 candidates filled their Detailed Application Form (DAFs) online, including the Petitioners. Call letters have conducted the medical examination were issued from 11th December, 2017 to 21st December, 2017 to all the candidates including the Petitioners. Interview/personality test was conducted by UPSC from 17th May, 2018 and finally 170 candidates were selected and this list was declared on 29th June, 2018. All the three Petitioners were placed at sl. No. 165 onwards. Total number of tentative vacancy was as under:-

(1)	BSF	-	28
(2)	CRPF	-	65
(3)	CISF	-	23
(4)	SSB	-	63

	Total	-	179

5. The said vacancies were again increased by UPSC as per the following details:-

Sl.No.	Name of Force	Initial Vacancy	Increased vacancy	Total
1	BSF	28	--	28
2	CRPF	65	+13	78
3	CISF	23	-02	21
4	SSB	63	-	63
	Total	179	11	190

6. 10% of such vacancies were earmarked for Ex-servicemen. It was clarified in the advertisement dated 12th April, 2017 that service allocation of candidate will be made on the basis of post in the merit list and his preference and the allocation was done accordingly. Since the Petitioners were placed in the merit list at the bottom side (from sl. No. 165 onwards), hence the Four force allocation as done by the Nodal Force (CRPF) and the same was approved by Ministry of Home Affairs (MHA). The Petitioners were allocated CRPF as per the rules. Accordingly, the petitioner Pankay Yadav was allotted SSB, Manu was allotted to CRPF and Rishabh Kumar Sharma was also allotted CRPF. The Petitioners belonged to OBC cadre and vacancies of CISF were filled up to the rank of 21 whereas Petitioners were placed at sl. No. 165 onwards. The second choice given by Petitioner Pankaj Yadav was SSB accordingly he was allotted SSB. It has been clarified that instead of 170 there were 190 vacancies and 10% of the same reserved for Ex-servicemen to 19 and only 6 Ex-servicemen had qualified the said exam and their allotment of the Forces had been made on the basis of the position in the merit list and his preference. An additional affidavit was also filed by the Respondents on 10th July, 2019 in response to the order to the Court dated 22nd April, 2019, which is reproduced hereunder:-

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DELHI**

+ **W.P. (C) 11503/2018**

PANKAJ YADAV

..... Appellant

Through: Ms. Archana Ramesh,
Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Jaswinder Singh,
Advocate with Mr.
Sushil Kumar Pandey,
Sr. Panel Counsel with
Mr.R.R. Sharma, and Mr.
K.C.Joshi from CRPF.
Mr.Vivek Kumar Singh,
DC Law CRPF with
Mr.Deepak Kumar, SI
CRPF.

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W.P. (C) 11507/2018

MONU

..... Appellant

Through: Ms. Archana Ramesh,
Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Mahender Kr.
Bhardwaj, Mr.K.C.Dubey
and Ms. Vinita Kumari
Ashutosh Advocates for
R-1 to R-3.
Mr.Vivek Kumar, Singh,
DC Law CRPF with
Mr.Deepak Kumar, SI
CRPF.

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W.P. (C) 11511/2018

RISHABH KUMAR SHARMA

..... Appellant

Through: Ms. Archana Ramesh,
Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Mahender Kr. Bhardwaj,
Mr.K.C.Dubey and Ms. Vinita
Kumari Ashutosh Advocates
for R-1 to R-3.

Mr.Vivek Kumar, Singh, DC
Law CRPF with Mr.Deepak
Kumar, SI CRPF.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

% **22.04.2019**

1. The replies filed by the Respondents do not address the principal issue of how the 10% of the vacancies earmarked for ex-servicemen, which the Respondents acknowledge is 19 (being 10% of 190), have been sought to be filled up. In particular, the Court would like to know (i) if there is a separate cut off mark for the ex-serviceman quota and (ii) whether the three Petitioners before this Court, who are at serial Nos. 165, 167 and 168 in the combined merit list were included therein only because of such separate cut off mark for ex-servicemen or in terms of a general cut off mark for all candidates?

2. The Respondents shall file an additional affidavit answering the above queries raised by the Court, not later than one week prior to the next date.

3. List on 17th July 2019.”

7. The relevant para No. 3 of the said counter affidavit is reproduced herein:-

“3. That, in response to the Hon'ble Court order dated 22.04.2019 the answering respondents sought the information from the UPSC and in reply, the Under Secretary, UPSC, New Delhi vide letter No. 1/22(10)/2018-E-XIII dated 23.05.2019 has informed that a separate cut off mark for the Ex-servicemen quota had been fixed as per Rules of CAPF(ACs) Examination 2017. The final result of CAPF (ACs) Exam-2017 was released vide Press Note Dated 29.06.2018 in which the name of 170 successful candidates was declared and petitioners at Sr. No. 165, 167 and 168 in the Combined merit list were included therein by virtue of their merit in Ex-servicemen quota (separate cut-off than general cut-off)”

8. The detailed mark-sheet of all the candidates is also available on record which shows that out of total marks of 600, the top most candidate Chirag Garg had obtained 385 marks and the candidate at sl. No.164 Mr.Daware Anup Shyamrao who belonged to SC category had obtained 295 marks out of total 600 marks. The six servicemen who were shown at sl.No.165 had obtained the following marks:-

Sl. No.	Name	Marks
165	Pankaj Yadav	246
166	Navin	214
167	Monu	214
168	Rishabh Kumar Sharma	209
169	Tikam Chand	201
170	Vivekanand Prasad	183

9. It is clear that Ex-servicemen were included in the combined merit list by virtue of a separate cut-off than the general cut-off. It is significant to note here that the last Ex-servicemen Vivekanand Prasad who was shown at Sl.No. 170 had obtained only 183 marks. The selection list was prepared on the basis of the separate cut-off by giving a relaxation and separate selection

list on Ex-servicemen. Once the selection has been made, all the successful candidates have been ranked in seniority on the basis of the total marks obtained by them and thereafter the choice of Paramilitary Force was complied and out of four choices given by them, the candidates were allocated the Paramilitary Force of their choice. If the required vacancies are filled in a Paramilitary Force up to a particular member naturally the next candidate in line, even though he had been given his first choice of the said Paramilitary Force cannot be accommodated and he is to be allotted the second force of his choice which has been done by the Respondents. There is no illegality in preparing the merit list and allocation of forces to the candidates as the Ex-servicemen candidates i.e. Petitioners and other candidates have qualified on the basis of the lower cut-off marks awarded to them.

10. There is no ground to interfere in the result so declared. All the three writ petitions are without any merit and there are hereby dismissed. No order as to cost.

TALWANT SINGH, J

S. MURALIDHAR, J

DECEMBER 24, 2019

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