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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of decision: 24th December, 2020

+ W.P. (C) 11091/2020

LEKH RAJ & ORS.

....Petitioners

Through: Ms. Saahila Lamba,
Advocate.

versus

UNION OF INDIA & ORS.

....Respondents

Through: Mr.J.K.Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

W.P. (C) 11091/2020 & CM APPL. No.34665/2020 (of the petitioners seeking stay on operation of office order dated 3rd December, 2020 and letter dated 17th November, 2020)

1. The 71 petitioners, informed to be all of the rank of Constable in the respondents Railway Protection Force (RPF) and further informed to be belonging to the same Ferozpur Division, seniority list of Constables of which Division was subject matter of challenge in W.P.(C) No.11293/2016 titled *Gurpartap Singh vs. Union of India*, have filed this petition impugning the office order dated 3rd December, 2020 and letter dated 17th November, 2020 issued with respect to the Computer Based Test (CBT) for centralized selection for promotion from the post of Head Constable to Assistant Sub-Inspector (ASI), under Rule 70 of the Railway Protection Force Rules, 1987, akin to fast track promotion

through the mode of Limited Departmental Competitive Examination (LDCE). Mandamus is also sought to the respondents RPF to re-draw/correct the seniority list of Constables in the Ferozpur Division of the RPF, including the petitioners, in terms of the dicta of this Court dated 31st January, 2019 in ***Gurpartap Singh*** supra.

2. We have enquired from the counsel for the petitioners, whether she has examined our recent judgment dated 17th December, 2020 in W.P.(C) No.920/2020 titled ***Ashok Singh Bhadauria vs. Union of India***.

3. The counsel for the petitioners replies in the affirmative but states that the same would be of no avail since the petitioners herein are Constables of the same Ferozepur Division of the RPF.

4. It is argued, (i) that the respondents, in spite of ***Gurpartap Singh*** supra having been pronounced nearly two years back, have till now not re-drawn the seniority list of Constables; (ii) that the petitioners expect that on the seniority list being so re-drawn, they will, as per their re-drawn seniority, be promoted as Head Constables in the respondents RPF; (iii) that though the promotion will take place from the date granted, but the petitioners will become immediately entitled to take the said CBT announced for promotion to the post of ASI; and (iv) thus, the relief of immediately re-drawing the seniority list in terms of ***Gurpartap Singh*** supra and of restraining the proposed CBT till thereafter.

5. The counsel for the respondents states that the said CBT has already taken place on 12th December, 2020 and though a supplementary examination is scheduled to be held on 27th December, 2020 but it is only

for those candidates who though, were in the list of eligible candidates for taking the said exam but could not take the said exam owing to administrative reasons.

6. We have considered the arguments of the counsel for the petitioners but are of the view that the petitioners, in the hope that on redrawing of the seniority list, will stand promoted as Head Constables and become eligible to take the said CBT for immediate promotion from Head Constable to ASI, do not have a right to stall the chance of existing Head Constables eligible to appear in the said CBT and if succeed therein, get a promotion to the rank of ASI. Moreover, the persons likely to be affected by the relief claimed in the petition i.e. the Head Constables of the Ferozpur Division of RPF who are eligible to take the said CBT have not even been made a party to this petition and orders prejudicial to them cannot be passed.

7. The counsel for the petitioners states that the petitioners are not even aware of the names and particulars of those who are eligible to take the subject examination.

8. The list of eligible Head Constables for said CBT must have been published and had the petitioners made any enquiries, it was not difficult for them to learn of the same and implead the Head Constables likely to be affected by the relief claimed in the petition.

9. The right of the petitioners to agitate rights as Head Constables will accrue only when the petitioners, on re-drawing up of the seniority list of Constables in the Ferozpur Division in accordance with ***Gurpartap Singh***

supra, are promoted as Head Constables and the petitioners, in anticipation, cannot stall the process of promotion upto the highest of the ranks for the reason of the seniority list of the rank of Constables having been ordered to be re-drawn.

10. No merit is thus, found in the petition.

11. Dismissed.

12. We are however concerned with the non-drawing up of the seniority list of Constables in Ferozpur Division in terms of **Gurpartap Singh** supra for the last, as aforesaid, nearly two years and which delays on the part of the respondents gives rise to petitions, as the present one.

13. The counsel for the respondents appearing on advance notice on enquiry states that he in turn had enquired and has been informed that the re-drawn seniority list will come out “shortly”. He is however not able to state, how long this “shortly” is.

14. While disposing of the petition, we direct the respondents RPF to publish the re-drawn seniority list in terms of **Gurpartap Singh** supra, on or before 30th April, 2021.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

DECEMBER 24, 2020/mw