

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

% Date of decision: 29th May, 2020

+ W.P.(C) 3275/2020

SATPAL RAWAT & ORS PETITIONERS

Through: Mr. Ankur Chhibber, Adv.

Versus

UNION OF INDIA & ORS. ...RESPONDENTS

Through: Mr. Arun Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

CM No.11480/2020 & CM No.11481/2020 (both for exemption)

1. Allowed, subject to just exceptions and as per the extant rules.
2. The applications are disposed of.

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3. The three petitioners viz. (i) Satpal Rawat, (ii) Rajendra Singh Chauhan and (iii) Radha Mohan Meena, claiming to be (a) serving as Deputy Inspector Generals in respondents no.2 and 3 Central Reserve Police Force (CRPF); and, (b) eligible for promotion to the post of Inspector General, vacancies in which post have arisen/are likely to arise on 1st May, 2020, 30th June, 2020 and 31st July, 2020 due to retirement and promotion of officers from the Promotee Cadre in the post of Inspector General, have filed this petition seeking a mandamus to the respondents to, convene a Departmental Promotion Committee (DPC) for promotion to the rank of Inspector General, against the three anticipated vacancies and to immediately

consider the petitioners for the said vacant posts, for promotion to the rank of Inspector General.

4. It is the case of the petitioners that as per the Department of Personnel and Training (DOPT), Office Memorandum (OM) dated 8th May, 2017, for strengthening of the process of timely convening of DPCs, directions have been issued but though the vacancies, of which one has already arisen, were due to arise in the year 2020 but no action in terms of the OM for filling up of the vacancies has been taken. The petitioners, as Annexure-P6 to this petition have filed a copy of the order dated 17th December, 2019 of this Court in W.P.(C) No.13281/2019 titled **Sanjay Prakash Vs. Union of India** and it is stated that the petitioner therein Sanjay Prakash was similarly placed as the petitioners herein and this Court vide the order dated 17th December, 2019 directed the Ministry of Home Affairs to, within four weeks therefrom hold a DPC to decide the claim of the petitioner therein and to take a decision not later than 31st March, 2020. It is further stated that in compliance of the said order dated 17th December, 2019, the said Mr. Sanjay Prakash has been considered by the DPC and the ACC has approved him for appointment as an Inspector General of Central Industrial Security Force (CISF).

5. Per contra, the counsel for the respondents appearing on advance notice has contended that vide interim orders in W.P.(C) Nos.13014/2019, 12052/2019, 12875/2019, 12751/2019 and 13588/2019, there is a restraint against filling up of the vacancies *inter alia* to the post of Inspector General without informing the Court and the respondents have filed applications in the said writ petitions informing the Court of the vacancies and the proposal

to fill up the same and the said writ petitions are listed next on 22nd June, 2020. It is stated that this petition be also clubbed along with those writ petitions especially since the counsel for the petitioners herein is the counsel for the petitioners in the aforesaid writ petitions also. It is also stated that the petitioner no.3 Radha Mohan Meena herein is also the petitioner in one of the aforesaid writ petitions.

6. However during the hearing when the counsel for the respondents was reading out to us from the interim orders in the aforesaid five writ petitions, it appeared that the restraint therein is with respect to the filling up of the vacancies arising on account of deputation. Per contra, here the counsel for petitioners, on enquiry re-affirms that the three vacancies which have arisen / are likely to arise are out of the Promotee Cadre only. It is informed that there are 46 sanctioned posts of Inspector General and of which as per prevalent Rules, 23 are to be filled up by promotion and 23 by deputation and the three vacancies for which the petitioners are seeking consideration are in the Promotee Cadre only.

7. The counsel for the respondents has then informed that the petitions aforesaid are for Cadre Review, in view of the Central Armed Police Forces (CAPF) services having now been declared as Organized Group 'A' Services and it is the contention of the petitioners in the aforesaid five writ petitions that once the CAPF have been declared as Organized Group 'A' Service, till Senior Administration Grade, no deputation can be allowed.

8. The counsel for the respondents states that since a large number of vacancies besides the vacancies in the Promotee Cadre of Inspector General

Grade are lying un-filled, direction, for filling up all the said vacancies as also sought by way of applications in the aforesaid five petitions, be given.

9. We today cannot pass any order beyond the scope of the present petition. The scope of the present petition is confined to filling up of the vacancies which have already arisen and/or are likely to arise in the post of Inspector General of the Promotee Cadre only and we are of the view that if the petitioners are eligible to be so considered, there should no delay in their consideration, by holding a DPC and more so when as per the OM also, the consideration is required to be done in advance so that there is no delay in promotions and in filling up of the posts. Rather, it appears that there has already been a delay.

10. Though the petitioners claim to be eligible for consideration for promotion to the post of Inspector General but since the petition has come up today for the first time and the counsel for the respondents is appearing on advance notice, there is no proof of admission thereof. We are however of the opinion that for determining the eligibility of the petitioners, the notice of the petition need not be issued as the eligibility for promotion is also to be determined by the respondents and if the respondents do not find the petitioners or any of them to be eligible, would be at liberty to inform the petitioners/petitioner so. In this petition, the eligibility for promotion is not at issue. If the petitioners or any of them are reported to be not eligible and are aggrieved therefrom, would have remedies thereagainst.

11. We are also of the opinion that not only the petitioners, but even others similarly situated as the petitioners and who are eligible to be so considered for the vacancies aforesaid in the post of Inspector General,

should be considered in the same DPC as the petitioners are seeking. Merely because it is the petitioners who have approached the Court, they cannot be given a preferential treatment. The direction for filling up of the other vacancies if any, as sought by the counsel for the respondents, can be considered as and when those matters come up before us.

12. We have however, taking advantage of the fact that the counsel for the petitioners herein is admittedly also the counsel for the petitioners in the writ petitions interim orders wherein are cited by the counsel for the respondents, enquired from the counsel for the petitioners, whether he, as counsel for the petitioners in other five petitions also, is willing to make a statement that the order as sought today would not be in violation of the interim orders in the other writ petitions.

13. The counsel for the petitioners states that there would be no violation of the interim orders in the other writ petitions, by the order as sought in this petition.

14. In the aforesaid view of the matter and especially when we are leaving it open to the respondents to also consider the eligibility of the petitioners for participating in the DPC and not giving any preferential treatment to the petitioners alone, need to keep this petition pending is not felt.

15. The petition is disposed of with the following directions:

- (i) The respondents to, within one month, consider the eligibility of the petitioners for consideration for the post of Inspector General in the Promotee Cadre of CRPF and if find the petitioners or any of the petitioners to be not eligible therefor, to

within the said one month inform the reasons in writing to the petitioners/petitioner concerned.

- (ii) The respondents to, within two months herefrom, hold a DPC for considering all those who may be eligible for promotion to the post of Inspector General in the Promottee Cadre of CRPF and within further period of 15 days announce the result of the said DPC and if the petitioners or any of them are considered and found entitled to promotion, to immediately thereafter give effect to the promotion.

16. On the request of the counsel for the respondents, we also grant liberty to the respondents to apply for immediate listing of the other five writ petitions aforesaid.

The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

MAY 29, 2020

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