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

Date of decision: 17th July, 2020

+ **W.P. (C) 3792/2020**

UDAI SHANKAR SRIVASTAVA Petitioner

Through: Mr. Ankur Chhibber & Anshuman
Mehrotra, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Arun Bhardwaj, CGSC for
R/UID with Mr. Abhishek Sharma,
Mr. Nikhil Bhardwaj & Mr. Piyush
Gaur, Advocates.
Mr. Naresh Kaushik with Mr.
Vardhman Kaushik, Advocates for
R/UPSC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

17.07.2020

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[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J

W.P. (C) 3792/2020

1. Vide order dated 13th July, 2020, after hearing the counsels, we reserved judgment in this petition but granted time to Mr. Arun Bhardwaj, standing counsel for the respondents 1 & 2 Border

Roads Organisation (BRO), to file some documents by 1700 hours on 15th July, 2020.

2. No documents were received from Mr. Arun Bhardwaj Advocate till 1700 hours on 15th July, 2020 and the Court Master, on telephonically contacting Mr. Bhardwaj was informed, that time for filing the documents be extended till 16th July 2020 at 1700 hours. Time was so verbally extended.

3. On 16th July 2020, Mr. Arun Bhardwaj Advocate sent an email to the Court, enclosing therewith,

(i) letter dated 15th July, 2020 of the petitioner to the respondents No. 1 & 2 BRO, stating *inter alia*:-

“1. I have got firm information that correct stand has been taken by MoD (BR) and file for DPC proposal for promotion from Jt Dir (Admn) to Dir (Admn) has been processed further and DPC will be held at the earliest possible time in view of my retirement on 31 Aug 2020.

2. In view of above I certify that I withdraw the above writ petition.

3. I have given instructions in this regard to my Advocate vide email No.2511H/818/Pers dated 15 Jul 2020 (photocopy enclosed) to withdraw the above writ petition from Hon'ble Court.

4. It is very humble requested that the DPC proposal may please be processed on priority day to day monitoring bases and DPC be

convened at the earliest keeping in view my retirement on 31 Aug 2020.”

(ii) Letter dated 15th July, 2020 of the petitioner to his Advocate Mr. Ankur Chhibber as under:-

“1. I have got firm information that correct stand has been taken by MoD (BR) and file for DPC proposal for promotion from Jt Dir (Admn) to Dir (Admn) has been processed further and DPC will be held at the earliest possible time in view of my retirement on 31 Aug 2020.

2. In view of above it is requested to take immediate necessary action to withdraw the above writ petition from Hon’ble Court.”

(iii) Communication dated 15th July, 2020 of the Deputy Secretary to the Government of India, forwarded under cover of letter dated 15th July, 2020 to Mr. Arun Bhardwaj Advocate, as under:

**“Sub: COURT CASE WP(C) 3792/2020
FILED BY SHRI US SRIVASTAVA VS UOI
& ORS FOR PROMOTION TO DIR (ADMN)
BEFORE HON’BLE DELHI HIGH COURT**

*Reference your ID note No
17303/DGBR/6231/MON/LC-DLI dated 13
July, 2020.*

2. In this connection it is submitted that Cadre Review of Administrative Officer Cadre of GREF of BRO was undertaken recently wherein the number of posts of Dir (Admn) in the cadre was increased from 2 to 4 vide MoD BR letter No BRDB/02/04/2017/GE.1 dated 26.05.2020. Dte.Gen.BR was also directed to

process the necessary amendments in RRs as DPC of any post has to be in terms of RRs which also indicate the total allocation of manpower against a given post which forms the basis of promotion. Simultaneously the advice of concerned wing was also sought as to whether DPC can be processed without amending the Recruitment Rules.

3. Notwithstanding the exercise of amended inclusion of increased number of posts as an outcome of Cadre Review, in the RRs, the instant proposal for promotion from Jt Dir (Admn) to Director (Admn) has already been forwarded to the concerned section D (Appts.), MoD, on 13/07/2020 for processing the case based on existing RRs and MoD letter No BRDB/02/04/2017/GE.1 dated 26th May, 2020 as regards vacancy position.

4. This has the approval of JS (BR/Trg./Cer.).”

4. We accordingly directed the matter to be listed today, for pronouncement of judgment, hoping that the petition, in terms of the aforesaid letters, would be withdrawn.

5. Mr. Ankur Chhibber Advocate for the petitioner states that he was not aware of the aforesaid letters written by his client and has after being informed of the same, has telephonically contacted his client, who has stated that, ‘as advised by his superiors, he had issued the two letters and handed over to the respondents’. Mr. Ankur Chhibber Advocate however expresses his anxiety with respect to his client being considered for promotion and if found

fit, being promoted before the date of the petitioner's superannuation on 31st August 2020.

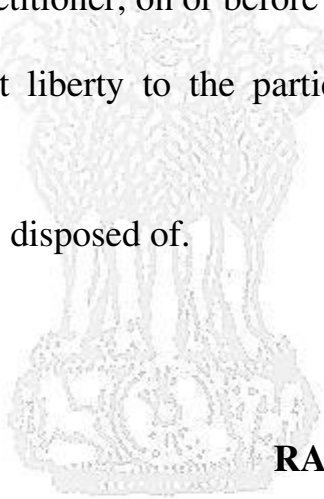
6. We have enquired from Mr. Arun Bhardwaj standing counsel for the respondents no. 1 & 2 BRO, whether the aforesaid communication dated 15th July, 2020 of the Deputy Secretary to the Government of India has to be further acted upon by the respondents no. 1 & 2 BRO.

7. Mr. Arun Bhardwaj informs that some work for holding of the DPC has already been done, but now after receipt of this communication, a proposal has to be prepared, to be submitted to the respondent no. 3 UPSC, for holding of the DPC.

8. Mr. Naresh Kaushik counsel for the respondent no. 3 UPSC states that the respondent no. 3 UPSC would also require at least four weeks' time with effect from the date of receipt of the proposal, for holding of DPC.

9. We take the communication dated 15th July, 2020 of the Deputy Secretary to the Government of India to be amounting to conceding to the relief sought by the petitioner in this petition. The very fact that the respondents no. 1 & 2 BRO obtained the two letters aforesaid from the petitioner, also confirms the same. Once it is so, we are not required to give a detailed judgment. However, to ensure that the relief so conceded does not get embroiled in bureaucratic delays and the process required to be completed is completed within the available time, we deem it appropriate to,

- A. direct the respondents no. 1 & 2 BRO, to submit a proposal for holding of the DPC, to the respondent no. 3 UPSC, on or before 24th July, 2020;
- B. direct the respondent no. 3 UPSC to, immediately on receipt of the said proposal, hold the DPC, on or before 14th August, 2020; and,
- C. direct the respondents to, if the petitioner, in the DPC is found fit and is recommended by the DPC for promotion, to promote the petitioner, on or before 24th August, 2020.
10. We also grant liberty to the parties to apply, if the need arises.
11. The petition is disposed of.



**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

JULY 17, 2020
ck/pkb