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

+ **W.P.(C) 5028/2020**

KRISHAN KUMAR GAUR Petitioner

Through: Mr. Bahul Kalra and Mr. Akhand
Pratap Singh, Advocates.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Jivesh Kumar Tiwari,
Advocate for respondents.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

% **07.08.2020**

1. The hearing has been conducted through video conference.
2. The petitioner is seeking expunging remarks penned by the Countersigning/Accepting Authority in the Annual Performance Assessment Report for the period 01st April, 2018 to 31st December, 2018 when the petitioner was posted as ASI/CM in Indo-Tibetan Border Police Force. The petitioner has also challenged the order dated 27th May, 2019 whereby his promotion was kept in abeyance and the internal note dated 03rd December, 2019 by Assistant Commandant (O), HQ, ERG, Zone, DTE, General ITBP. The petitioner made a representation which was rejected by the Second-in-Command/CAO on 05th August, 2019.
3. This Court is of the view that this writ petition be treated as a petitioner's representation to respondent No.2 to be heard and decided by an officer senior to the officer, who rejected the petitioner's representation on 05th August, 2019.

4. Learned counsel for respondent No.2 submits that Inspector General (Administration), ITBP is senior to the officer, who rejected the petitioner's representation on 05th August, 2019.
5. The copy of this writ petition be placed before Inspector General (Administration), ITBP, who shall consider the same as petitioner's representation. Inspector General (Administration), ITBP, shall afford an opportunity of personal hearing to the petitioner within six weeks and pass a reasoned order within eight weeks thereafter, which shall be communicated to the petitioner. Inspector General (Administration), ITBP, shall consider the petitioner's representation untrammelled by any observation made in the order dated 05th August, 2019.
6. This writ petition is disposed of in the above terms.
7. Learned counsel for respondent No.2 shall communicate this order to Inspector General (Administration), ITBP within a period of two weeks from today.
8. It is clarified that this Court has not expressed any opinion on the merits of this case and nothing recorded herein shall be construed as an expression thereof.
9. This Court appreciates the assistance rendered by learned counsels for both the parties in this matter.
10. The order be uploaded on the website of this Court forthwith.

J.R. MIDHA, J.

BRIJESH SETHI, J.

AUGUST 07, 2020/ak