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

+ **W.P.(C) 9401/2019, C.M. APPLs. 38724/2019 and 53723/2019**
PADAM KUMAR Petitioner

Through: Mr. Nitin K. Gupta with Mr. Sushil
K. Singhal and Mr. B. K. Gautam,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Nikhil Goel with Mr. Dushyant
Sarna, Mr. Vinay Mathew and
Mr. M. L. Agarwal, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **29.01.2020**

1. The Petitioner's grievance in the present writ petition is that on account of a long pending enquiry against him relating to an incident from 2008 -09, his case for promotion as Chief Engineer ('CE') (Civil) in the Border Roads Organisation ('BRO') is getting delayed. His real apprehension is that if he is not promoted as CE (Civil) on or before 1st February, 2020, then by virtue of the BRO [Additional Director General, Border Roads ('ADG, BR')] Recruitment (Amendment) Rules, 2004, he will not have completed 1 year service as CE (Civil) in order to be considered for the further promotion as ADG, BR.

2. As regards the stage at which the enquiry is, it is seen that despite the
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Enquiry Officer exonerating the Petitioner of all charges, a disagreement note has been submitted by the Disciplinary Authority ('DA'), a copy of which was supplied to the Petitioner only on 4th October, 2019.

3. Learned counsel for the Respondent informs the Court that the enquiry has since progressed, and the second stage advice of the Central Vigilance Commissioner ('CVC') is awaited. He further states on instructions that in the event that Petitioner is exonerated of the charges and his case is taken up for promotion as CE (Civil), such promotion would be ante-dated to September 2017, the date on which his name was placed in a sealed cover by the DPC pending the completion of the enquiry.

4. In view of the above clarifications, the following directions are issued:

(i) The second stage advice of the CVC will be rendered not later than 28th February, 2020.

(ii) The DA's final decision thereafter will be taken not later than 31st March, 2020 and communicated to the Petitioner not later than 15th April, 2020.

(iii) In the event that the Petitioner stands exonerated in the enquiry, all further steps of granting the promotion, if recommended by the DPC held in 2017, will be taken and orders issued accordingly within 15 days of such exoneration.

(iv) In the event that the Petitioner is aggrieved by the order passed by the DA, it will be open to him to seek appropriate remedy in accordance with law.

5. A copy of this order shall be delivered to the CVC by the Respondents along with a covering letter so that the above direction is strictly complied with.

6. The petition is disposed of in the above terms. The pending applications also stand disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 29, 2020
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