

\$~4 (2021)

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

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Date of decision: 18.11.2021

+ **W.P.(C) 11791/2021 & CM Nos.36504-05/2021**

MANOJ KUMAR GOPE & ORS.

..... Petitioners

Through: Mr K.C. Mittal and Mr Yugansh Mittal, Advs.

versus

INTELLIGENCE BUREAU

..... Respondent

Through: Mr Anil Soni, CGSC with Mr Farman Ali, Sr. Panel Counsel and Mr Athar Raza Farooquei, Advs.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

RAJIV SHAKDHER, J.: (ORAL)

[Physical Court Hearing]

1. On the previous date of hearing i.e. 12.10.2021, after hearing the learned counsel for the parties, we had recorded the following:-

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2. *This writ petition is directed against the order dated 30.09.2021, passed by the Central Administrative Tribunal (in short 'the Tribunal').*

2.1. *The petitioner's original application i.e., O.A. No.1113/2021 was dismissed by the Tribunal, via the impugned order.*

3. *Mr K.C. Mittal, learned senior counsel, who appears on behalf of the petitioners, says that, in the aforementioned O.A.,*

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challenge had been raised to the Office Memorandums (OMs), dated 17.02.2021 and 01.03.2021, respectively.

3.1. Besides this, according to Mr Mittal, a direction had been sought that the petitioners should be considered for absorption in the Intelligence Bureau (IB), in accordance with the recruitment rules and other instructions, as applicable to them.

3.2. The petitioners who belong to Central Armed Police Forces (CAPF) are, presently, on deputation with IB. As noticed above they wish to be absorbed in the IB permanently and hence are resisting their repatriation.

3.3 According to Mr Mittal, the petitioners hold the rank of Security Assistant (SA)/ Junior Intelligence Officer -II (JIO-II).

3.4 Mr Mittal states that, a close examination of OM dated 30.03.2020, (which is the plank on which the aforementioned OMs dated 17.02.2021 and 01.03.2021 rest), would show that, it applies to Assistant Central Intelligence Officer (Exe)- I & II, and not to SAs and JIOs-II.

3.5. On the other hand, Mr Anil Soni and Mr Anurag Ahluwalia, who appear on behalf of the respondent, say that, the policy, which is applicable to the petitioners, is part of the OM dated 31.12.2015.

3.6 Mr Soni also says that, the petitioners' request for absorption was considered by a Screening Committee, in light of the said O.M i.e., O.M dated 31.12.2015.

3.7. It is Mr Soni's contention that only, after the Screening Committee had considered and applied its mind to the request made by the petitioners, that, their plea for permanent absorption with IB was declined.

3.8. On the other hand, Mr Mittal says that, the only reason that the petitioners' request for permanent absorption in IB was rejected was, on account of the fact that, they were deployed with the Bureau of Immigration (BOI). This error, according to him, occurred, as respondents relied upon clause (iii) of the OM dated 30.03.2020, ignoring clause (2) of the very same OM.

3.9. It is Mr Mittal's submission that, clause (2) of the OM dated 30.03.2020 would have to be read with OM dated 31.12.2015.

4. Mr Soni says that, he will file an affidavit, in line with the stand taken by him before us, and also produce the relevant record for perusal of the Court.

4.1. The record will be produced by Mr Soni in a sealed cover.

5. List the matter on 18.11.2021.

6. For the moment, status quo, as obtaining today, shall be maintained, till the next date of hearing.”

2. Mr Anil Soni, who appears on behalf of the respondent, has filed an affidavit, pursuant to our order dated 12.10.2021.

2.1. Mr Soni has also brought to the court, the relevant record concerning the petitioners.

3. Mr Soni has made two principal submissions:-

(i) That the reason for rejecting the petitioners request for absorption was not on account of the fact that they worked for the Bureau of Immigration [in short, “BOI”].

(ii) That the petitioners’ were considered in line with the Policy guidelines for Deputation/Absorption in non-gazetted ranks in Intelligence Bureau (IB) [hereafter referred to as “policy guidelines”] provided in the Office Memorandum (OM) dated 31.12.2015, issued by IB, and the OM dated 17.06.2010, issued by the Department of Personnel and Training (DoPT).

3.1. Mr Soni also states in no uncertain terms that the petitioners’ case for absorption in IB was not considered, having regard to the guidelines contained in the OM dated 30.03.2020.

3.2. Mr Soni admits that these guidelines concerned absorption of personnel holding rank of ACIO-I/Exe and ACIO-II/Exe.

3.3. In support of his plea that the OM dated 31.12.2015 would be

applicable to the petitioners, reliance is placed by Mr Soni on the concluding lines of paragraph 2 of the OM dated 30.03.2020, which reads as, “...***At the level of SA/Exe, JIO-II/Exe & JIO-I/Exe, we may continue with the current practice.***” In other words, it is Mr Soni’s contention that the policy guidelines contained in the OM dated 31.12.2015, get tied in with this part of the OM dated 30.03.2020.

4. Having said that, Mr Soni cannot but accept that, insofar as the petitioners in the above-captioned petition are concerned, their cases were not put before the Screening Committee.

4.1. These cases, even according to Mr Soni, were rejected at the stage of scrutiny of service records.

4.2. Mr Soni cannot dispute the fact that these cases should have also been put for consideration, before the Screening Committee.

5. Thus, having regard to the aforesaid, we are inclined to set aside the impugned order dated 30.09.2021, passed by the Central Administrative Tribunal in O.A. No. 1113/2021, and remit the matter for consideration by a duly constituted Screening Committee.

5.1. Pending consideration, the *status quo* as directed by the order 12.10.2021, will continue to operate.

5.2. In case the petitioners have any grievance, after their case is considered by the Screening Committee, they will have liberty to take recourse to an appropriate remedy, as may be available in law.

5.3. In case the Screening Committee does not recommend the petitioners’ case for absorption, and such recommendation, thereafter, is accepted by the Director of IB, the same will not be given effect to, for a period of one week.

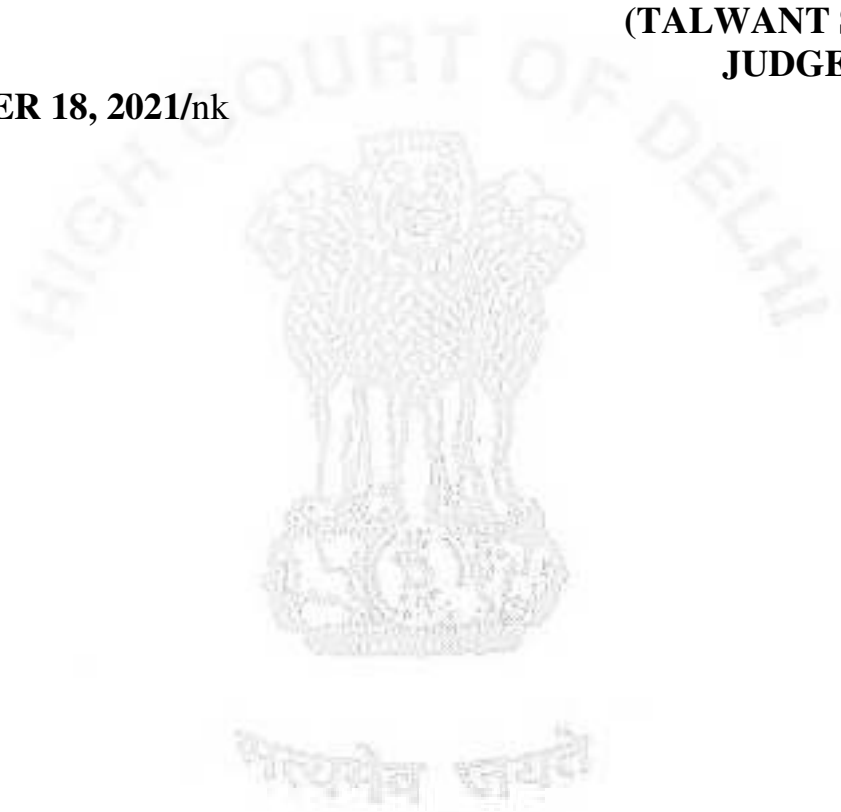
6. The writ petition is disposed of in the aforesaid terms. Consequently,

pending applications shall also stand closed. The record brought to Court by Mr Soni is returned to him.

(RAJIV SHAKDHER)
JUDGE

(TALWANT SINGH)
JUDGE

NOVEMBER 18, 2021/nk



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