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

% ***Date of decision: September 28, 2022***

+ W.P.(C) 8532/2021 & CM APPL. 26413-26414/2021

DR. D. SRINIVAS RAJESH Petitioner

Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Advocates.

versus

UNION OF INDIA AND ORS Respondents

Through: Ms. Bharathi Raju, Senior Panel
Counsel with Mr. Hemendra Singh,
Dy. Commandant (Law), BSF

+ W.P.(C) 9008/2021 & CM APPL. 28012-28013/2021

DR.ASHUTOSH BAJPAI Petitioner

Through: Mr. Ankur Chhibber and Mr.
Anshuman Mehrotra, Advocates.

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Sushil Kumar Pandey, Senior
Panel Counsel with Mr. Kuldeep
Singh and Ms. Vaishali, Advocates
and Mr. Hemendra Singh, Dy.
Commandant (Law), BSF

**CORAM:****HON'BLE MR. JUSTICE SURESH KUMAR KAIT****HON'BLE MR. JUSTICE SAURABH BANERJEE****J U D G M E N T** (oral)

1. Vide these petitions, petitioners are seeking quashing of the order dated 15.07.2021 to the extent whereby the names of the petitioners have been excluded by the respondents, for promotions to the rank of DIG (Med); directions to the respondents to conduct Review DPC for considering the petitioners for promotions to the rank of Deputy Inspector General (Medical), based on the criteria as laid down in the DOPT OM dated 08.05.2017 thereby excluding any extraneous consideration into account and if found fit then promote the petitioners to such rank from the date the vacancy has arisen, i.e. w.e.f. 01.08.2021, with all consequential benefits.
2. Since the prayers and the issue(s) raised in these petitions are same, therefore, with the consent of learned counsel for parties, these petitions have been heard together and are being disposed of by this common judgment.
3. It is submitted by the learned counsel for the petitioners that the period from 01.04.2015 to 31.03.2020 is to be taken into consideration for promotion of the petitioners in the instant case and during the said period, ACRs of the petitioners were “very good” / “outstanding”, as there was no incriminating ACRs or material against and no case was pending against them during that period. Thus, there was nothing against the petitioners.
4. Vide order dated 16.02.2022, respondents were directed to produce photocopies of the DPC records in a sealed cover. Consequently, on



11.07.2022, Minutes of Promotion Committee Meeting held on 24.06.2021 were produced in a sealed cover. On perusal of the Minutes of Promotion Committee Meeting dated 24.06.2021, this Court found that some allegations are mentioned against the petitioners. However, the said allegations are prior to the period to be taken into consideration for promotion and thus no material against the petitioners for the purposes of the promotion in question.

5. Accordingly, the respondents were directed to clarify in the affidavit regarding the period taken into consideration for promotion of petitioners and also as to how the period prior to 01.04.2015 has been taken into consideration while rejecting the petitioners' case for promotion.

6. Pursuant to order dated 11.07.2022, clarification affidavit is stated to have been filed in W.P.(C) 9008/2021. However, the same is not on record. A copy of the same has been produced before this Court wherein in para 4 it is mentioned as under:

“..... Since, DPC has exercised its own discretion in deciding the eligibility for the promotion, therefore, the department had no role in regard to the decision taken up by the DPC concerning the eligibility of the officers for the promotion. The department herein is only required to comply with the decision taken by the DPC shortlisting the officers for the promotion.”

7. Learned counsel for the respondents states that as the position/stand of the respondents is same in both the petitions, the same clarification affidavit can also be read in the other connected W.P.(C) 8532/2021.

8. In view of the above and since there is nothing incriminating against the petitioners during the period for consideration to withhold them from



promotions, therefore, we hereby direct the respondents to promote the petitioners to the post of DIG (Medical) from the date on which their juniors were promoted, i.e. 15.07.2021, and grant them all consequential benefits including monetary and seniority.

9. Respondents are also directed to issue order to this effect within four weeks from today in favour of the petitioners.

10. In view of above, the present petitions are disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

SEPTEMBER 28, 2022

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