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

+ W.P.(C) 11265/2021

EX-CT BAJRANG LAL Petitioner
Through: Mr. A.K. Trivedi, Advocate.

versus

UNION OF INDIA Respondent
Through: Mr. Avnish Singh, Advocate.

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Date of Decision: 24th February, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

Matter has been heard by way of video conferencing.

1. Present writ petition has been filed challenging the orders dated 29th December, 2019, 4th June, 2020 and 7th June, 2021 whereby the petitioner was removed from service. Petitioner seeks a direction to the respondent to reinstate the petitioner in service with all consequential benefits.
2. Learned counsel for the petitioner states that the petitioner was appointed as a Constable GD in CISF after qualifying a competitive examination held by Staff Selection Commission on 3rd April, 2017. He states that the petitioner served the department to the satisfaction of his



superior officers till the passing of the impugned order. He states that vide Memorandum dated 7th September, 2019, a charge-sheet was issued to the petitioner alleging that the petitioner had secured employment by producing a false and fabricated OBC certificate. He states that the petitioner had applied for the Caste certificate dated 18th May, 2016 with the help of some private person sitting outside the Court. He also states that when the petitioner came to know that the same was not issued by the competent authority, the petitioner immediately applied for another OBC certificate and same was issued to the petitioner on 30th March, 2017 by the competent authority. He points out that these facts were in the knowledge of the concerned authority and at the time of his joining the petitioner had submitted the caste certificate dated 30th March, 2017.

3. Learned counsel for the petitioner states that the petitioner filed his reply to the charge-sheet vide representation dated 17th September, 2019 denying the charges and explaining his position. However, the disciplinary authority appointed the inquiry officer without considering the same. He states that the charge-sheet was based on letters stated to be issued by the Tehsildar, Patel Nagar, Delhi, whereas, during the inquiry, Tehsildar, Patel Nagar, New Delhi, was not called as a witness to prove these documents.

4. He states that the charges cannot be said to be proved on the basis of documents which had not been proven. He states that during the inquiry the petitioner clearly stated that he was allowed to join on the basis of OBC certificate dated 30th March, 2017 which had been issued by Rajouri Garden Tehsildar and not the certificate dated 18th May, 2016. He further states that the petitioner also requested the authorities to verify the subsequent Caste certificate from the concerned Tehsildar.



5. Learned counsel for the petitioner states that the inquiry officer without verifying the correctness of the OBC certificate dated 30th March, 2017 submitted his report on 15th November, 2019 and that too without affording any opportunity to the petitioner to submit his defence. He states that disciplinary authority failed to consider the contentions of the petitioner and passed the impugned order removing the petitioner from service.

6. On 4th October, 2021, when the present writ petition was taken up for hearing, this Court had directed the learned counsel to obtain instructions as to whether the petitioner's subsequent Caste certificate dated 30th March, 2017 submitted at the time of joining was genuine or not.

7. Learned counsel for the respondent has filed an affidavit dated 11th January, 2022. Along with the said affidavit a letter dated 12th November, 2021 issued by the Sub-Divisional Magistrate, Rajouri Garden, GNCT of Delhi, has been enclosed. In the said letter, it has been admitted that the Certificate dated 30th March, 2017 has been verified at E-District Portal available with the Sub-Division, Rajouri Garden and it has been found that the same has been issued by the proper authority. In the said letter, it is also stated that as per the verification report, the applicant belongs to OBC Gurjar Caste.

8. In the opinion of this court since the petitioner belongs to OBC Gurjar Caste, there is a ring of truth in what the petitioner has stated in the present writ petition. In any event, the petitioner being an OBC is entitled to the benefit of his caste.

9. Consequently, the impugned orders dated 29th December, 2019, 4th June, 2020 and 7th June, 2021 are set aside and the petitioner is directed to be reinstated in service within four weeks of uploading of the order.



10. It is made clear that the petitioner shall not be entitled for payment of salary for the period that he has not worked i.e. from the date of removal of service till the date of rejoining. However, the said period shall be counted for promotion, seniority and pay fixation purposes.

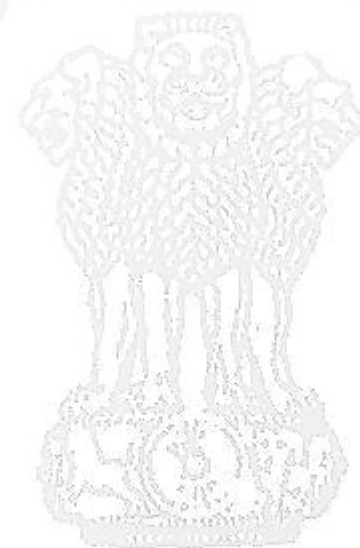
11. With the aforesaid observation and direction, present writ petition is disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 24, 2022

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