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

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Date of decision: 25.01.2023

+ W.P.(C) 986/2023 & CM APPL. 3873/2023

MAHENDRA SINGH KASWAN AND ORS. Petitioners

Through: Mr. Nikhil Bhardwaj, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Piyush Beriwal, Sr. Panel
Counsel with Ms. Seema, G.P for R-1
to R-4

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 3873/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. The application is accordingly disposed of.

W.P.(C) 986/2023

3. Present petition has been filed seeking directions to the respondents to re-fix the seniority of the petitioners with the Assistant Commandants selected through Central Police Force AC Examination, 2005 conducted by the UPSC for 32nd batch of BSF for all purposes including promotion, pension and other retirement benefits.
4. During the course of hearing, learned counsel appearing on behalf of

the petitioners has submitted that petitioner no.1 had made a representation to the respondents for the relief sought in the present petition, however, the said representation has already been rejected. With regard to other petitioners, learned counsel prays that a direction be issued to the respondents to treat the present petition as their representation and on instructions, seeks liberty to withdraw the present petition on their behalf.

5. In view of aforesaid prayer, learned counsel on behalf of petitioners is permitted to withdraw the present petition qua petitioner nos.2 to 7 with direction to the respondents to consider this petition as representation on behalf of these petitioners and decide the same within four weeks.

6. Since representation made on behalf of petitioner no.1 stands already rejected by the respondents, the present petition is heard qua petitioner no.1 only.

7. The grievance of the petitioner no.1 is that there is a huge difference between the basic salary drawn by 32nd batch and 33rd batch of BSF and also since petitioners were appointed in 33rd batch of BSF due to delay in issuing appointment letters, therefore, there appears seniority discrepancies and it is settled position of law if appointment is by selection, seniority of the entire batch has to be reckoned with regard to the merit position.

8. On the other hand, learned Sr. Panel Counsel appearing on behalf of the respondents have disputed the contentions raised on behalf of petitioner no.1 by submitting that subsequent to appointment of petitioner no.1 in the year 2008, about 163 officers i.e. Assistant Commandants selected through LDCE mode as well as promotion quota have been placed over the petitioners in the Gradation List of 2010, which has not been challenged. Thereafter, as stated by the learned counsel for the petitioner that oral

summary representation was made and the respondents assured that the seniority list will be re-examined and re-fixed. Thereafter on 27.01.2016, respondents re-assigned the seniority list of about 53 affected Commandants but still the petitioner did not challenge the same.

9. Undisputedly, the petitioner was appointed in the year 2008, whereas, his batch mates were appointed in 2007. Moreover, the petitioner did not challenge the Gradation List of 2010 nor re-assigned list of the year 2016. Admittedly, meanwhile other candidates on promotion, through LDCE or direct selections, have become seniors to the petitioner. Despite the petitioner continued to be in slumber, however, lot of water has flown.

10. Accordingly, there is huge delay in approaching the Court, present petition is dismissed for delay and laches.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 25, 2023/PA