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

% *Date of decision: 08.05.2023*

+ W.P.(C) 3688/2020 and CM APPL. 13205/2020
MUKESH A CHAUDHARY & ORS Petitioners

Through: Mr. Shanker Raju, Mr. Nilansh Gaur,
Advocates.

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Sagar Mehlawat, Mr. Alexander
Mathai Paikaday, Advocates.
SI Harendra Singh, SSB

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+ W.P.(C) 4134/2020 and CM APPL. 14868/2020
JATINDER KUMAR AND ANR Petitioners

Through: Mr. Shanker Raju, Mr. Nilansh Gaur,
Advocates.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC with Mr. Srish Kumar Mishra,
Mr. Sagar Mehlawat, Mr. Alexander
Mathai Paikaday, Advocates.
SI Harendra Singh, SSB

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH
ARORA

J U D G M E N T (oral)

1. The petitioners in their petitions have made following prayer:

a) *To call for the records and quash and set aside the impugned orders at Annexure P-1 (colly) numbering of 4 of even dated 18.06.2020 and further direct the respondents not to initiate any fresh enquiry under summary force court and the decision to prematurely repatriate the petitioners from deputation be also set aside and the petitioners be allowed to complete their respective deputations in the borrowing departments.*

2. Vide order dated 24.08.2020, this court passed the order as under:

8. *We, on 21st August, 2020 as well as today, have requested the counsel for the respondents SSB to find a solution to the issue inasmuch as prima facie today also it seems that the action of the respondents SSB of earlier proceeding against the petitioners under one Rule and now under another Rule, is not permitted by law. It also prima facie appears that the respondents SSB themselves are to be equally blamed for not having a procedure to detect the number of attempts which the candidate has taken in the LDCE. In today's day and age of computerization, the systems we have found prevalent in Air Force, of the system not accepting the application if not in accordance with the Rules, should be introduced.*

9. *We are also prima facie of the opinion that the matter, at least as far as those who did not succeed in 4th attempt as LDCE, which was contrary to the Rules, should be closed in terms of punishment already meted out and as far as those who have already been promoted are concerned, the respondents SSB may consider appropriate resolution.*

3. Thereafter, vide order dated 14.10.2020, this Court observed as under:

2. *Mr. Arun Bhardwaj, counsel for the respondents in W.P. (C) 3688/2020 & W.P. (C) 4134/2020 has informed/proposed, (i) that in all 246 Constables/Head Constables appeared in the Limited Departmental Competitive Examination (LDCE) for promotion to the post of Sub-Inspectors, beyond the maximum chances permitted under the Rules to take the said LDCE; (ii) that of the said 246, 230 failed and only 16 passed; (iii) of the 230 which failed, 200 were meted out different punishments and which punishments were implemented; (iv) out of 30 which failed, but have not been punished, 12 are on deputation to Central Bureau of Investigation (CBI)/National Investigation Agency (NIA) and the remaining 18 continue to remain with the respondents Sashastra Seema Bal (SSB); (v) all the said 30 Constables/Head Constables who have not been punished, are already facing departmental action; (vi) that the said 30 can be meted out the same punishments as were meted out to the 200 others i.e. without detailed inquiry, if the proceedings are for the same violation; (vii) as far as the 16 who have illegally procured promotions are concerned, the Court may proceed to decide their cases on merits; and, (viii) out of 16 who have so secured promotions, 9 have filed petitions, being W.P. (C) Nos.2748/2019, 6451/2019 & 1818/2020 of today, before this court and the remaining 7 have filed petitions before the Allahabad High Court and Patna High Court and which are pending.*
3. *The aforesaid proposal of the respondents SSB, as conveyed by Mr. Arun Bhardwaj, Advocate, appears reasonable and we have called upon the counsel for the petitioners in W.P.(C) Nos.2748/2019, 6451/2019 & 1818/2020, to address us on the merits of this case i.e. why his clients, who have secured promotions to the rank of Sub-Inspectors by availing more than the permissible number of chances to clear the LDCE, be not reverted as Constables/Head Constables, as the case*

may be.

4. The counsel for the petitioners in W.P. (C) Nos.2748/2019, 6451/2019 & 1818/2020 then states that he is not ready to address the arguments and some documents also are required to be filed.

4. Learned counsel on behalf of the respondents submits that the punishment which was imposed on the petitioners has already been served by the petitioners.

5. Accordingly, since the punishment for the misconduct has already been served by the petitioners, therefore, the respondents are directed not to initiate the further proceedings on the same misconduct against the petitioners herein.

6. Accordingly, Order dated 18.06.2020 is hereby set aside.

7. In view of the above, the present petitions are allowed and disposed of.

(SURESH KUMAR KAIT)
JUDGE

(MANMEET PRITAM SINGH ARORA)
JUDGE

MAY 8, 2023/PA