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

% **Date of decision: 22nd May, 2023**

+ **W.P.(C) 6888/2023**

2IC RAM VASHISHTHA YADAV IRLA 19771458 Petitioner
Through: Mr. Ayush Negi & Ms.
Vishakha Upadhayay,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Anshuman, Sr. Panel
Counsel for UOI.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. *Vide* the present petition, the petitioner is seeking following reliefs:

“a.) Issue a writ of Mandamus directing the Respondent No. 3 to consider the grant of promotion to the Petitioner from the post of Assistant Commandant to Deputy Commandant, Second in Command and Commandant retrospectively w.e.f. 23.05.2002 in strict compliance of O.M. No. 36012/1/2020Estt.(Res)-II dated 17.05.2022;

b.) Issue a writ of Mandamus directing the Respondents No. 1 & 2 to enforce O.M. No. 36012/1/2020-Estt.(Res)-II dated 17.05.2022 in complete letter and spirit in a time bound manner.”

2. Mr. Anshuman, Senior Panel Counsel, appearing on advance notice for the respondents, points out that the petitioner has already filed the Writ Petition bearing No. W.P.(C) 522/2020, wherein he sought the promotion from the Post of Assistant Commandant to the Post of Deputy Commandant w.e.f. 25.08.2004, whereas in the present petition, he is seeking the aforesaid promotion w.e.f. 23.05.2002 in view of compliance of Office Memorandum bearing No. 36012/1/2020-Estt.(Res.-II) dated 17.05.2022 issued by the

Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India.

3. Learned counsel on behalf of the petitioner submits that as per the aforesaid Office Memorandum dated 17.05.2022, the petitioner is eligible for promotion to the Post of Deputy Commandant from the Post of Assistant Commandant, and to this effect, he made the Representation dated 24.05.2022 to the respondent No. 3/Director General, Border Security Force, however, till date, the said Representation dated 24.05.2022 has not yet been decided by the respondent No. 3/Director General, Border Security Force.

4. Accordingly, without going into the merits of the present case and commenting on the same, we hereby dispose of the present petition directing the respondent No. 3/Director General, Border Security Force to decide the Representation dated 24.05.2022 of the petitioner within six weeks from today.

5. The decision, so taken, shall be communicated to the petitioner with a reasoned order within one week thereafter.

6. Accordingly, the present petition is disposed of.

7. Needless to state that if the petitioner is still aggrieved by the decision of the respondent No. 3/Director General, Border Security Force, he may challenge the same before the appropriate forum.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MAY 22, 2023/S.Sharma