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

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Date of decision: 26.05.2023

+ W.P.(C) 7476/2023

ROHIT SINGH RATHORE & ORS.

..... Petitioners

Through: Mr.Vivek Sheel, Ms.Deepshikha &
Mr.Anshul Mahajan, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Anshuman, SPC with Mr.Rahul
Kumar Sharma (GP)

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.29043/2023 (exemption)

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

W.P.(C) 7476/2023 & CM APPL. 29042/2023

3. By way of the present petition, petitioners pray as under:
 - a. To quash and set aside impugned order No.I.2101/28/2022 (E-13229)/Estt-2298 dated 24.02.2023 as unconstitutional and ultra vires the ITBP Act & Rules;
 - b. To quash and set aside order No.I-21017/28/Afghanistan/2022/Estt-8701-99 dated 27.02.2023 and direct the respondents to draw a fresh list of empaneled personnel on the basis of Standing Order No.04/2017



as it stood prior to amendment dated 24.02.2023.

4. The case of petitioners is that respondents ITBP had issued signal dated 11.07.2022 calling nominations from eligible ITBP personnel for preparation of panel for deputation to Indian Mission Afghanistan in terms of Standing Order No.04/2017. The petitioners applied and after going through the pre-selection training and final test, they were declared successful in terms of the Standing Order No.04/2017. The petitioners were hopeful of securing high rank in the final merit list of declared successful candidates. However, respondents in an irrational and arbitrary manner have issued impugned amendment dated 24.02.2023 by which criteria of seniority amongst the candidates has been notified.

5. During the course of hearing, learned counsel for the petitioners submitted that the impugned amendment after declaration of the pre-selection final results is bad in law being unconstitutional. It was submitted that vacancies for deputation had arisen in January, 2022 and the amendment order has been issued on 24.02.2023, hence, the impugned amendment order deserves to be set aside.

6. Notice issued.

7. Learned counsel accepts notice on behalf of the respondents and submits that the impugned amendment order dated 24.02.2023 will be applicable on future candidates and with regard to the petitioners in question, the list will be prepared strictly in terms of SO 4/2017.

8. In view of aforesaid submission made on behalf of the respondents, learned counsel for the petitioner submits that the present petition can be



disposed of directing to prepare a fresh list strictly in terms of SO 4/2017.

9. Petition is disposed of with direction to consider the petitioner's case in terms of SO 4/2017.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MAY 26, 2023/ab

