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

Judgment delivered on: 20.10.2023

+ W.P.(C) 13952/2023 & CM APPL. 55055-56/2023

SANJAY KUMAR AND ORS Petitioners

versus

UNION OF INDIA AND ORS. Respondents

+ W.P.(C) 14005/2023 & CM APPL. 55371-72/2023

VINAY KUMAR OJHA AND ORS Petitioners

versus

UNION OF INDIA AND ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. Nikunj Arora and Mr. Arjun Panwar, Advocates

For the Respondents: Ms. Pratima N. Lakra, CGSC with Ms. Mimansak Bhardwaj, GP and Ms. Vanya Bajaj and Mr. Shivam Pandey, Advocates
Ms. Beenashaw Soni, Senior Panel Counsel with Ms. Mansi Jain, Advocate for UOI
Mr. Suhanshu Kaushik, DIG, SSB

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)



1. Petitioners, in W.P. (C) No. 13952/2023 are holding the rank of Second-in-Command in Sashastra Seema Bal (SSB). Petitioners are aggrieved by a Signal dated 14.08.2023 issued by the respondents calling for nomination of officers from Central Armed Police Forces other than the SSB holding the rank of Second-in-Command to fill up the posts of Commandant in SSB.
2. Petitioners, in W.P. (C) No. 14005/2023 are officers holding the rank of Deputy Commandant and also impugn the Signal dated 14.08.2023.
3. The case of the petitioners who are Second-in-Command is that they impugn the said signal contending that in case the people are called for on deputation, the promotional avenues are available to the said petitioners are likely to be consumed by the deputationist officers thereby depriving them of an opportunity of promotion.
4. Petitioners who are Deputy Commandants impugn the said signal on the ground that they have been eligible for promotion to Second-in-Command for last several years, however, could not earn promotion in absence of sufficient vacancies in the rank of Second-in-Command and because of lack of vacancies for Second-in-Command, they are also being deprived of non-functional selection grade, which they would have been eligible for after completing 13 years of service and some of them have completed nearly 16 years of service. They further contend that in case the posts are filled up by deputation, the number of Second-in-Commands who would earn local promotions would be reduced thereby depriving that many



Deputy Commandants from earning their promotions to the rank of Second-in-Command.

5. Learned counsel for the petitioners submits that in terms of Recruitment Rules notified on 17.06.2013, the post of Commandant is to be filled up by promotion failing which by deputation/absorption or re-employment of Armed Forces personnel. Learned counsel submits that endeavour should be made to first fill up the post by promotion and only in case it is not possible to fill up the post by promotion, the competent authority should resort to the method of recruitment by deputation. Learned counsel further submits that the respondents are calling for deputation of officers belonging to the rank of Second-in-Command giving them a promotional deputation to the rank of Commandant. He submits that in so far as the promotion is concerned, the officer should have undergone promotional courses as prescribed by the Director-General of the SSB from time to time and none of the officers who are sought to be brought in on deputation have undergone the said promotional courses, though some of them may have undergone promotional courses in their particular forces.

6. Learned counsel further submits that in terms of Rule 9 of the said Recruitment Rules grants power of relaxation to the Central Government if it deems necessary or expedient to do so. He submits that though the petitioners and other Second-in-Command are not eligible as on date but they are short of a few months from competing the requisite five years of regular service as required in the specified Pay Band, it is open to the competent authority i.e. Central



Government to exercise the power of relaxation. He submits that in the past also in several cases power of relaxation has been exercised in the interest of the force.

7. Learned counsel further submits that Rule 8 of the Sashastra Seema Bal Rules 2009 also empowers the Director-General, subject to confirmation by the Central Government, to grant local rank to an officer in the interest of better functioning of the force. He submits that in the past also in several cases similar power has been exercised by the Director-General with confirmation by the Central Government of grant of local rank to officers.

8. Learned counsel submits that in case several officers are brought in from other forces on deputation, the morale of the officers serving in the SSB for last several years is likely to be affected and there is likelihood of stagnation of certain officer in so far as promotion is concerned.

9. Learned counsel for the respondents submits that the process of appointment by deputation has been forwarded to the competent authority i.e. Central Government on 16.10.2023.

10. Learned counsel for the respondents submits that the deputation had to be resorted to in the instant case in the interest of the force and also for the reasons that none of the Second-in-Command were eligible for consideration in terms of the Recruitment Rule.

11. Keeping in view the facts and circumstances of the case, we are of the view that it may be expedient for the Central Government to also consider the grievance of the petitioners as spelt out in the subject



petitions by taking a decision on the proposal forwarded by the respondents for appointment of the officers in the rank of Commandant by resorting the process of deputation.

12. In view of the above, we dispose of these petitions with direction that these petitions be placed as representations before the competent authority i.e. Central Government. The competent authority i.e. already considering the proposal forwarded by the respondents for appointment by deputation.

13. The competent authority shall also consider the request of the petitioners for exercise of the power conferred of relaxation and/or appointment or grant of local rank to the officers. Respondents shall take steps for placing these petitions as well as orders of this Court before the competent authority for consideration.

14. The petitions are accordingly disposed of in the above terms.

15. It is clarified that it would be open to the competent authority to take an independent view of the matter without being influenced by anything stated in this order on merit.

16. Order *dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

OCTOBER 20, 2023
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