



2024:DHC:8213-DB



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

***Date of decision: 21.10.2024***

+ W.P.(C) 12346/2023  
DR BRAJESH KUMAR .....Petitioner

Through: Mr.Joby P. Varghese, Adv.

versus

SASHASTRA SEEMA BAL AND ANR .....Respondents

Through: Mr.Anshuman, SPC along with  
Mr.Vinod Kumar Tiwari, GP.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE SHALINDER KAUR**

**NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed by the petitioner challenging the Order dated 27.03.2023, issued by the respondents, granting promotion to the petitioner from Second-in-Command (Medical) in Level-12 of the Pay Matrix to the rank of Commandant (Medical) in Level-13 of the Pay Matrix in the Sahshastra Seema Bal (in short, 'SSB') under the Dynamic Assured Career Progression Scheme only with effect from 16.11.2022, stating that it is the date of completion of currency period of punishment.

2. Admittedly, in terms of the Office Memorandum dated 29.10.2008, the petitioner was due to be promoted to the rank of Commandant (Medical) in Level-13 of the Pay Matrix in the SSB under the Dynamic Assured Career Progression Scheme with effect



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from 20.02.2020. The petitioner was, however, served with a charge-sheet dated 19.03.2020, which eventually resulted in an Order dated 16.11.2021, awarding punishment of 'Forfeiture of service for the purpose of promotion for one year' under Section 58(1)(a) of the Sashastra Seema Bal Act, 2007.

3. In the Departmental Promotion Committee (in short, 'DPC') held on 12.07.2022, the petitioner was found fit for promotion to the rank of Commandant (Medical) and the said proposal was sent to the respondent no.2 for its approval. The respondent no.2, however, remitted the file back with a request to revise the DPC. Pursuant to the same, another DPC was held on 06.03.2023 to consider the promotion of 08 officers who were Second-in-Command (Medical) to Commandant (Medical), and the petitioner was recommended for promotion with effect from 16.11.2022, taking that to be the date of completion of the period of the punishment.

4. The learned counsel for the petitioner submits that the punishment would have to take effect from 20.02.2020, when the petitioner, in terms of the Office Memorandum dated 29.10.2008, was eligible for the grade pay of Rs.8700 in PB-4 and, therefore, the petitioner was due for promotion as Commandant (Medical) in Level-13 of the Pay Matrix with effect from 20.02.2021.

5. On the other hand, the learned counsel for the respondents submits that the petitioner was awarded the punishment of 'Forfeiture of service for the purpose of promotion for one year' only by an Order dated 16.11.2021 and, therefore, he would become eligible for promotion only with effect from 16.11.2022, the date which has been



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assigned in the Impugned Order for his seniority.

6. We have considered the submissions made by the learned counsel for the parties.

7. Admittedly, the petitioner was due for promotion to the post of Commandant (Medical) in Level-13 of the Pay Matrix on 20.02.2020. In our view, the punishment awarded to him by the Order dated 16.11.2021, therefore, has to be counted with effect from 20.02.2020 for a period of one year. Having suffered the punishment, the petitioner would become eligible for promotion on 20.02.2021. The respondents, by the Impugned Order, have in fact enhanced his punishment to a period of more than two years and nine months. The same cannot be accepted.

8. Accordingly, the Impugned Order dated 27.03.2023 is set aside. It is directed that the respondents shall grant to the petitioner the rank of Commandant (Medical) in Level-13 of the Pay Matrix with effect from 20.02.2021. The petitioner shall, however, not be eligible for any enhanced wages because of the same till the date of the present Judgment, but will be eligible to get his seniority and other consequential benefits, including notional fixation of his pay.

9. The petition is allowed in the above terms. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**SHALINDER KAUR, J**

**OCTOBER 21, 2024/rv/SJ**

*Click here to check corrigendum, if any*