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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 437/2022

PRIYADARSHANI BHARDWAJ AND OTHERSPetitioners

Through: Mr.R.K.Shukla, Ms.Nisha Maurya &
Ms.Menuka Bardewa, Advs.

versus

UOI AND ORS

.....Respondents

Through: Mr.Virender Pratap Singh Charak &
Ms.Shubhra Parashar, Advs. with Mr.Devender
Singh, DCJ, ITBP.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

05.09.2024

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1. The petitioners, who are serving as Head Constables (Auxiliary Nursing and Midwifery) (hereinafter referred to as 'ANM') in the Indo Tibetan Border Police (ITBP), have approached this Court seeking the following reliefs:-

“a) Issue a writ in the nature of mandamus or such other appropriate order or direction thereby directing the respondents to review the cadre of head constable/ANM who are having with educational qualification of 10 + 2, degree/diploma in general nursing midwifery for treating them as staff nurse (sub-inspector) at par with head constable/ANM having with same qualification posted in BSF which are also the part of CAPF after completion of 10 years continuous service in the rank of HC/ANM as well as in terms of DOPTOM dated 23.11.1987 to remove the disparity of the employee as after every 5 years cadre review is permissible and impugned order dated 05.08.2021 be quashed and set aside and respondents be



directed to expedite the issue of cadre review in time bound manner as apparent from order dated 05.08.2021;

b) To direct the respondents to complete the process of cadre review in time bound manner and to apply all efforts to treat petitioners at par with HC/ANM employed in BSF and accordingly petitioners may be considered for their promotion in the Rank of SI/Staff Nurse;

c) To pass any other order which may deem think proper and fit.”

2. Learned counsel for the petitioners submits that ANMs like the petitioners serving in other Central Armed Police Forces (CAPF) including the Border Security Force (BSF) are being treated as Sub Inspectors (Staff Nurse), the petitioners who are serving in the ITBP, are still being treated as Head Constables. He submits that since parity was always being maintained between the ANMs serving in the ITBP with ANMs serving in other CAPF, the respondents ought to also upgrade the post of ANM in the ITBP to that of Sub Inspector (Staff Nurse).
3. Learned counsel for the respondents submits that a proposal in this regard has already been forwarded by respondent nos.2 & 3 to the respondent no.1/Ministry of Home Affairs (MHA), a decision from the respondent no.1 is, however, still awaited.
4. In the light of the aforesaid, when the respondent nos.2 & 3 have themselves recommended the petitioners' case for up-gradation of the post of Head Constable (ANM) to Sub Inspector (Staff Nurse), we are of the view that it would be appropriate that the respondent no.1 first takes a decision on the proposal submitted by respondent nos.2 & 3.



We, therefore, dispose of the writ petition by directing the respondent no.1/MHA to take, within four months, a final decision on the proposal of respondent nos.2 & 3 for up-gradation to the post of Head Constable (ANM) by taking into account that ANMs working in the ITBP were all along being treated at par with ANMs working in the BSF and other CAPF.

5. Needless to state, in case, the petitioners are aggrieved by the final decision taken by the respondent no.1, it will be open for them to seek legal recourse as permissible in law.
6. The writ petition is, accordingly disposed of in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

SEPTEMBER 5, 2024

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