



2025:DHC:106-DB



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

Date of decision: 08.01.2025

+ **W.P.(C) 3868/2023**

RAVI PRAKASH SHARMA

.....Petitioner

Through: Ms.Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Balendu Shekhar, CGSC,
UOI with Mr.Krishna
Chaitanya, Mr.Rajkumar
Maurya, Advs.

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 21.11.2022 passed by the respondents by which the petitioner's representation seeking promotion to the post of Logistics Officer (Deputy Commandant) has been rejected, *inter alia* observing as under:

"5. Whereas the experience of 09 years, whether in the grade of AC (Logistics) in the pay scale of Rs. 15,600-39,100 with Grade Pay Rs. 5400/- in Pay Band-3 (pre-revised) or combined with previous experience acquired in Personnel Below Officer Rank (PBOR) in the pay scale of Rs.9,300-34,800 with Grade



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Pay of Rs.4,200/- and pay scale of Rs. 9,300-34,800 with Grade Pay of Rs. 4600/- in PB-2 (pre-revised) in organisations like Indian Armed Forces, etc, is to be counted for Logistic Officer (Deputy Commandant), has not been clarified both in BSF Air Wing Officers (Group A) Combatised Posts Recruitment Rules-2011 and its Amendment Rules-2013.

6. *Whereas, the below mentioned 03 ACs (Log) are seniors to Shri Ravi Prakash Sharma who were recruited in BSF as Direct Entry Officers as per BSF Air Wing Officers (Group A) Combatised posts Recruitment Amendment Rules, 2013. Shri Ravi Prakash Sharma, AC (Log) stands at Seniority at Serial No. 4:-*

S.No.	IRLF No.	Name	Rank	Date of Joining BSF
(i)	11428190	Shri Dipender Singh	AC(Log)	22.12.2014
(ii)	11428176	Miss Swati Agrawal	AC(Log)	22.12.2014
(iii)	11630893	Shri Mahendra Pratap Singh Shekhawat	AC(Log)	07.12.2015
(iv)	81631421	Shri Ravi Prakash Sharma	AC(Log)	08.02.2016

7. *Whereas, the above 03 senior ACs (Log), though completed more than 07 years regular service in their present grade, but they have not yet acquired 09 years' experience due to which DPC for their promotion to the rank of Logistics Officer (Deputy Commandant) is not yet constituted."*

2. The petitioner further prays for a writ of mandamus directing the respondents to forthwith convene a Departmental Promotion Committee ('DPC') for considering the petitioner for the promotion to



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the post of Logistics Officer (Deputy Commandant) and to promote him to the said post with effect from 01.04.2021 in the vacancy year 2021, with consequential benefits.

3. It is the case of the petitioner that the petitioner assumed charge of Junior Logistics Officer (Assistant Commandant), Logistics Division of the Air Wing of Border Security Force (BSF), on 08.02.2016.

4. The Border Security Force, Air Wing Officer's (Group A), Combatised Posts Recruitment Rule, 2011 (hereinafter referred to the 'Recruitment Rules'), as far as the post of Logistics Officer (Deputy Commandant) is concerned, prescribes that the said post shall be filled by promotion, failing which by deputation (including short term contract)/absorption. For promotion, the requisite requirements to be fulfilled are as under:

(11)
<i>1. By Promotion: Junior Logistic Officer (Assistant Commandant) with five years' regular service in the grade of Pay Band-3 (Rs.15,600-39,100) and Grade Pay Rs.5,400/- with-</i> <i>(i) one year Stores Management or Material Management course from a recognized institute; and</i> <i>(ii) possessing nine years' experience in Stores Provisioning and knowledge of procedure relating to purchase and imports of aviation goods and modern method of inventory control, Stores, Accounting and Administration.</i> <i>Note 1: Where juniors who have completed their qualifying or eligibility service are considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying or eligibility service for more than half of such qualifying or eligibility service or two years,</i>



whichever is lesser, and have successfully, completed their probation period for promotion to the next grade along with their Juniors who have already completed such qualifying or eligibility service.

Note-2: For the purpose of computing minimum qualifying service for promotion, the service rendered on a regular basis by an officer prior to the 1st January 2006 or the date from which the revised pay structure based on the sixth Central Pay Commission recommendations has been extended, shall be deemed to be service rendered in the corresponding grade pay or pay scale extended based on the recommendations of the Commission except where there has been merger of more than one pre-revised scale of pay into one grade with a common grade pay or pay scale, and where this benefit will extend only for the post(s) for which that grade pay or pay scale is the normal replacement grade without any up gradation.

5. The learned counsel for the petitioner submits that as the petitioner, as on 01.04.2021, had been working for more than 5 years as Junior Logistics Officer (Assistant Commandant), and possess the other requisite experience including the one year's Stores Management course from a recognized institute and nine years experience in Stores Provisioning and knowledge of procedure relating to purchase and imports of aviation goods and modern method of inventory control, Stores, Accounting and Administration, having worked with the Indian Navy in the rank of MC EAA II, he was eligible for promotion to the post of Logistics Officer (Deputy Commandant) in the vacancy year 2021.
6. Referring to the Impugned Order dated 21.11.2022, the learned counsel for the petitioner submits that the respondents have erred in



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requiring the experience of nine years in particular Pay Scale or Grade Pay rather than in the particular trade as required in the Recruitment Rules. She further submits that merely because three officers, who are senior to the petitioner, have not completed the requisite service or have not acquired the requisite experience, cannot be a ground to deny promotion to the petitioner.

7. On the other hand, the learned counsel for the respondents submits that the experience certificate submitted by the petitioner had been sent to the Indian Navy for verification. However, in the reply dated 25.02.2022 received from the Commander, Naval Pension Officer, Mumbai, it has been intimated that the ex-sailor/petitioner was an Aviation tech Sailor and was employed for technical duties and he undertook activities related to procurement and supply of spares leading to operational readiness of the aircraft. It was further informed that the Competent Authority for issuing Experience Certificate to all releasing sailors is the Bureau of Sailors (CABS), because of which the genuineness/authenticity of the certificate issued by IHQ MoD (N) to the ESM cannot be validated.

8. We have considered the submissions made by the learned counsels for the parties.

9. As far as the eligibility criteria laid down by the Recruitment Rules for the post of Logistics Officers (Deputy Commandant), the same is clearly provided in the Recruitment Rules and there is no ambiguity in the same. Apart from five years service in the grade pay of Pay band-3 (Rs.15,600-39,100) and Grade Pay Rs.5,400/-), the



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candidate must also have completed one year's Store Management and Material Management course from a recognized institute, and possess nine years experience in Stores provisioning and knowledge of procedure relating to the purchase and imports of aviation goods and modern method of inventory control, stores, accounting and administration.

10. The Note I, appended to the eligibility criteria for Logistics Officers (Deputy Commandant) in the Recruitment Rules, further provides that where juniors who have completed their qualifying or eligibility service are considered for promotion, their seniors would also be considered, provided that they are not short of requisite qualifying or eligibility service for more than half of such qualifying or eligibility service or two years, whichever is lesser, and have successfully completed their probation period of promotion to the next grade along with their juniors, who have already completed such qualifying or eligibility service.

11. A reading of the eligibility criteria for Logistics Officers (Deputy Commandant) in the Recruitment Rules would show that the nine years' experience is not to be in a particular Pay Scale or a particular Grade Pay. The impugned Order dated 21.11.2022 in so far as it rejected the representation of the petitioner for not possessing the requisite experience in a particular Pay Scale or Grade Pay, therefore, cannot be sustained as a ground to deny the promotion to the petitioner, if the petitioner is otherwise qualified for the same.

12. As far as the submission of the learned counsel for the



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respondents that the experience certificate submitted by the petitioner could not be verified, is concerned, we are of the opinion that the respondents could have verified the experience certificate submitted by the petitioner from the Bureau of Sailor (CABs), as was advised to them. They could have further sought clarification from the petitioner for the same. It is not the case of the respondents that the certificate submitted by the petitioner was not genuine. The only question is whether the petitioner had the requisite experience in the requisite field or not, and this has to be determined by the respondents after taking into account all submissions of the petitioner and his service record.

13. At this stage, the learned counsel for the respondents submits that the petitioner did not possess the qualifying service as on 01.01.2021, which would be the cut off date for the vacancy year of 2021. This issue shall also be considered by the respondents while considering the eligibility of the petitioner for the vacancy year 2021 or for the subsequent years.

14. Accordingly, we set aside the impugned Order dated 21.11.2022 and direct the respondents to re-assess the eligibility of the petitioner for the post of Logistics Officer (Deputy Commandant) in accordance with the Recruitment Rules. If any further clarification is required, the respondents shall seek the same from the petitioner as also from the Indian Navy. This exercise shall be completed within 12 weeks from today. In case, the petitioner is found eligible, further process for considering the petitioner for the post of Logistics Officer



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(Deputy Commandant), including commissioning a Department Promotion Committee for the said purpose, shall also be undertaken by the respondents.

15. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 8, 2025
RN/VS

Click here to check corrigendum, if any