



2025:DHC:285-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 20.01.2025***

+ W.P.(C) 15100/2022
FORCE NO 047010151 INSP GD SANDEEP KUMAR
AND ORSPetitioners
Through: Mr.A.K. Singh, Mr.Kamlesh
Kumar, Advs. with petitioners

versus

UNION OF INDIA AND ORSRespondents
Through: Mr. Rajnish Kumarm Gained,
SPC, Mr.Himanshu Gupta,
Adv. with Mr.Ajay Pal, Law
Officer-CRPF.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. By way of the present petition, the petitioners pray for the re-fixation of their seniority along with their batchmates in the Gradation List of Inspector/GD dated 01.04.2017. The petitioners have been denied their seniority on the ground that they had not completed the mandatory field service for the post of Inspector.
2. The learned counsel for the petitioners, placing reliance on the Judgment of this Court in *Ashok Kumar & Ors v. Union of India & Ors.*, 2009:DHC:4482-DB, has submitted that the said issue is no longer *res-integra*. He submits that this Court in *Ashok Kumar & Ors.* (supra) has held as under:



“35. We may note that in all the cases, the authorities concerned i.e. BSF and CRPF have recommended to the Central Government that the rule requiring two years’ service in the duty battalion be relaxed due to the fact that all of a sudden a quantum jump in the cadre strength took place in the year 2004, which was not expected, and if the rule is strictly enforced, junior officers would steal promotion over the senior officers. Unfortunately, while exercising the power, the Central Government posed the wrong question by considering the adequacy or inadequacy of the number of officers in the feeder channel. The power was relaxed for such posts where officers in the feeder channel were less, denying similar benefit in the other posts. The correct question which need to be posed was, as noted by us in para 30 above; the backdrop in which the questions needed to be answered was as noted in para 31 above. The law applicable is the one as noted in paras 32 and 33 above.

36. We may note that with the increase in posts in the year 2004 and knowing fully well that the continued requirement of two years’ service in a duty battalion would hamper the promotional career of the officers, the respondents have themselves, put on track mode, the identification of its officers in various non-duty posts because the respondents know and recognize that transfer/posting is not in the hands of the officers but is a prerogative of the department and the department has to ensure that it affords an opportunity to all its officers to become qualified by serving in duty battalions. This also highlights the fact that the sudden change in situation in the year 2004, being unexpected, required a proper administrative redressal.

37. We accordingly quash the decision of the Central Government declining to relax the



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eligibility condition of two years' service in a duty battalion for promotion to the post of Inspector and 2 IC under BSF as also the post of Inspector under CRPF."

3. He submits that this Court has, therefore, held that it is for the respondents to post the officers for mandatory field service and having not posted the petitioners for the same, cannot deny them their seniority.
4. The learned counsel for the respondents does not dispute the above position of law. He, however, submits that as far as petitioner nos.4 and 5 are concerned, they have lost their promotion to the rank of Assistant Commandant as they have tendered their unwillingness to undergo the promotion course (ACPC) due to personal reasons.
5. The learned counsel for the petitioners, in rejoinder, submits that by the present petition the petitioners are only seeking the correct fixation of their seniority in the rank of Inspector/GD, and are not praying for the rank/seniority to be fixed for the post of Assistant Commandant.
6. We have considered the submissions of the learned counsels for the parties.
7. As would be evident from the above, this Court in **Ashok Kumar** (supra), considering the similar view of the respondents, has held that since the transfer/posting is a prerogative of the respondents, the respondents cannot deny seniority to personnel only on the ground that they have not been posted to undergo mandatory field service. We have quoted the relevant findings of this Court in **Ashok Kumar**



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(supra) hereinabove.

8. In view of the above, we direct the respondents to re-fix the seniority of the petitioners in accordance with the Judgment of this Court in **Ashok Kumar** (supra) and in accordance with the law, within a period of eight weeks from today, and grant the consequential benefits to the petitioners.

9. We need not make any comment on the rank/seniority of the petitioners for the post of Assistant Commandant, as the same has not been pleaded by the petitioners before us and is also not a subject matter of the present petition.

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

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 20, 2025/Arya/SJ

Click here to check corrigendum, if any