



2026:DHC:4554-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 19th May, 2026***+ **W.P.(C) 2855/2024 & CM APPL. 1070/2026, CM APPL. 32712/2026**

RAM BABU PATERIYA

.....Petitioner

Through: Mr Sujeet Kumar Choudhary
and Mr Shivam Kataria,
Advocates

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vijay Joshi CGSC, Mr.
Shubham Chaturvedi, Adv.
alongwith Sukhdev Bhumipal,
2 IC, 2nd in Command.**CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****AMIT MAHAJAN, J.**

1. The present writ petition has been filed by the petitioner, seeking opening of the sealed cover in respect of the Departmental Promotion Committees convened on 19.03.2018 and 09.01.2019 for promotion from the rank of Deputy Commandant to Second-in-Command and consequential determination of seniority with reference to the date on which his immediate junior came to be promoted.

2. Succinctly stated, the petitioner joined service in the Border Security Force in the year 1993 as Sub-Inspector/Junior Engineer (Electrical).



3. The dispute in the present proceedings arises out of disciplinary proceedings initiated pursuant to a Staff Court of Inquiry concerning allegations relating to irregularities/illegal gratification in the Engineering Department of the BSF. The Staff Court of Inquiry was conducted and disciplinary action came to be directed against the Petitioner. Thereafter, 2 disciplinary proceedings, one in the year 2016 with respect to illegal gratification and offences under the Prevention of Corruption Act, 1988 and other in the year 2018, with respect to Singing false Bills and making false statement, were initiated against the Petitioner.

4. During the pendency of the disciplinary proceedings, Departmental Promotion Committees were convened on 19.03.2018 and thereafter on 09.01.2019 for consideration of eligible officers for promotion to the rank of Second-in-Command. The Petitioner's case was admittedly considered; however, owing to pendency of disciplinary proceedings, the recommendations pertaining to him were kept in sealed cover.

5. It is the petitioner's case that in one set of proceedings he was ultimately exonerated by order dated 05.04.2019. However, in the other proceedings, the competent authority conveyed to the Petitioner the *DG's Displeasure* recorded, *vide* order dated 26.04.2019.

6. The petitioner thereafter sought opening of the sealed cover and consequential grant of promotional benefits. In the interim he was promoted to the rank of Second-In-Command



(Electrical) in April 2020. His several representation/appeals and requests, seeking opening of the seal covers, were either rejected or remained undecided. The last representation of the Petitioner was dismissed *vide* order dated 17.01.2024, principally on the ground that DG's Displeasure had been communicated against him.

7. Aggrieved thereby, the petitioner has approached this Court.

8. Learned counsel appearing for the Petitioner submits that the sole basis for non-opening of the sealed cover is communication of DG's Displeasure, which according to the petitioner is not a statutory punishment either under the BSF Act, 1968 or under the CCS (CCA) Rules, 1965.

9. It is submitted that the *Ministry of Home Affairs Office Memorandum dated 27.03.2015*, specifically records that "*Displeasure is not a penalty enlisted under Rule 11 of the CCS (CCA) Rules and therefore cannot be treated as a disqualification for promotion.*"

10. It is submitted that under Section 48 of the BSF Act, 1968, various punishments stand enumerated and *DG's Displeasure* does not find mention therein.

11. It is submitted that para 3 of the *DoPT Office Memorandum dated 14.09.1992*, governing sealed cover procedure, provides that once disciplinary proceedings conclude and allegations do not culminate in imposition of a recognised



penalty, the sealed cover is liable to be opened and consequential promotional benefits must follow.

12. Hence, it is prayed that denial of opening of the sealed cover solely on account of DG's Displeasure is contrary to the governing policy and unsustainable and the present petition be allowed.

13. *Per contra*, learned counsel appearing for the Respondents submits that disciplinary proceedings had indeed been initiated against the Petitioner and the recommendation of the DPC was rightly kept in sealed cover during pendency thereof. It is submitted that the competent authority, after consideration of material emerging from the inquiry proceedings, found it appropriate to convey DG's Displeasure and therefore the Petitioner could not claim promotion as a matter of right.

14. It is further submitted that though in the second case, the Petitioner stood exonerated from all the charge levelled against him, in the first disciplinary proceedings, lenient view was taken and only DG's Displeasure was recorded as a "*punitive measure*" and thus, the same cannot be said to be a complete exoneration, due to which the "*sealed cover*" could neither be opened nor be acted upon.

15. Submissions heard and material placed on record perused.

16. The admitted position emerging from the pleadings is that the Petitioner's case was kept under sealed cover solely



because disciplinary proceedings were pending at the relevant time when the DPCs met.

17. It is equally not in dispute that the Petitioner was subsequently visited with DG's Displeasure and that the rejection of his request for opening of the sealed cover rests substantially upon that circumstance.

18. At this stage, it becomes necessary to examine the nature of DG's Displeasure.

19. Section 48 of the BSF Act, 1968 enumerates punishments which may be imposed under the statutory scheme, which reads as under: -

“48. Punishments awardable by Security Force Courts.—

(1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Force Courts according to the scale following, that is to say,—

- (a) death;*
- (b) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;*
- (c) dismissal from the service;*
- (d) imprisonment for a term not exceeding three months in Force custody;*
- (e) reduction to the ranks or to a lower rank or grade or place in the list of their rank in the case of an under-officer;*
- (f) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;*
- (g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;*
- (h) fine, in respect of civil offences;*
- (i) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;*
- (j) forfeiture of pay and allowances for a period not exceeding three months for an offence*



committed on active duty;
(k) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;
(l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.
(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale."

20. DG's Displeasure undisputedly does not appear amongst the punishments specifically recognised under the provision. Similarly, Rule 11 of the CCS (CCA) Rules, 1965 catalogues the penalties which may be imposed in disciplinary proceedings. The Petitioner relies upon the MHA Office Memorandum dated 27.03.2015, which specifically clarifies that Displeasure is not one of the recognised penalties and cannot be treated as a ground for denial of promotion.

21. Additionally, the above issue has also been settled by the judgment passed by this Court in ***Dr. O.P. Nimesh v. Union of India and Ors.***, W.P.(C) 2466/2017 decided on 02.10.2018, whereby it has been opined that "*displeasure*" cannot act as an embargo to promotion and as per the DOP&T OM dated 21st March 2015, it is clear that "*displeasure*" is not a penalty enlisted in Rule 11 of the CCS (CCA) Rules, 1965 and it could not have been considered for denying promotion to the Petitioner therein. The above judgment has also been upheld by the Hon'ble Apex Court and has been followed by a Coordinate Bench of this Court



in the case of ***Rajdeep Chaudhary v. Union of India and Ors.***
MANU/DE/4510/2023, wherein it was held that: -

"26. Now the question which arises for consideration before this Court is as to whether due to DG's "displeasure", the petitioner can be deprived of the promotion, especially when the charge framed against him has been recommended to be set aside. This Court has gone through the Minutes of DPC Meeting dated 19.02.2014 and 19.02.2015, wherein the reason for keeping petitioner's case pending is mentioned as "pendency of ROE" and not "displeasure".

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29. This Court in O.P. Nimesh (Supra) in view of the fact that when DPC in the said case was held on 15.07.2015, the aforesaid OM dated 27.03.2015 had already been notified, held that "displeasure" was not a bar in promotion of the petitioner therein and directed the respondents therein to hold a review DPC and assess petitioner's case in accordance with rules.

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36. In view of above-said, the present petition is allowed. In the light of OM dated 27.03.2015, the Show Cause Notice dated 12.05.2016 and order dated 22.07.2016 conveying "displeasure" by the respondents, are set aside. This Court is informed that petitioner has already been promoted to the post of Deputy Commandant on 06.11.2016. Consequently, a direction is issued to the respondents to convene a review DPC within four weeks to consider the case of petitioner subject to fulfilment of other eligibility criteria prevalent in the year 2014. Needless to say, if petitioner fulfils the criteria, he shall be promoted from the post of Assistant Commandant to the post of Deputy Commandant w.e.f. 01.04.2014 i.e. the date his



juniors have been promoted, with all consequential benefits. "

(emphasis supplied)

22. A Coordinate Bench, *vide* order dated 05.09.2024 passed in W.P.(C) 11418/2024, titled as ***Chandra Sen Singh Vs. Union of India & Anr***, made similar observations and held as under: -

*“ 3. In the light of this stand taken by the respondents and the admitted position that this Court has in Dr. O.P. Nimesh (supra) **held that a displeasure awarded to an employee can not in itself be a ground to hold him as ineligible for promotion,** which decision has been followed in W.P.(C) 8027/2019 titled as Arun Kumar vs. Union of India and Ors., we allow the writ petitions by directing the respondents to reconsider the case of the petitioners for grant of NFFU w.e.f 01.01.2022 without treating the impugned displeasures awarded to them dated 26.08.2021 and 10.06.2021 as a bar for promotion.*

*4. **Consequently, the impugned order dated 08.11.2023 will stand quashed to the extent it excluded the names of the petitioners.** The exercise in terms of this order will be conducted within a period of 12 weeks. In case upon reconsideration, the petitioners are found eligible for grant of NFFU, all consequential benefits w.e.f. 01.01.2022 will be released to them within a period of six weeks thereafter.”*

(emphasis supplied)

23. Once the issue regarding the effect of DG's Displeasure on promotional entitlement already stands concluded that the same would not operate as a statutory punishment or a bar to promotion, the Respondents could not have adopted a different standard in the case of the present Petitioner. The argument of the



Respondent that the law settled in **Dr. O.P. Nimesh** (supra) is not applicable to the present case as the Petitioner is a BSF officer, is highly misplaced. As evident from the observations in **Chandra Sen Singh** (supra), the Coordinate Bench of this Court, had decided the cases of two similarly situated BSF Officers namely Sh. Chandra Sen Singh and Sh. Mohit Pundeer, *vide* the common Order dated 05.09.2024. It stands noted therein that the Respondents did not deny that their case (involving 2 BSF Officers) was squarely covered by the decision of **Dr. O.P. Nimesh** (supra). Today, the Department has taken a completely contradictory stand, without placing anything on record to substantiate the same. In the absence of any distinguishing feature, once the judgment passed in case of Sh. Chandra Sen Singh and Sh. Mohit Pundeer has been accepted by the Respondent, similarly situated personnel are required to receive similar treatment and the Petitioner could not have been denied opening of the sealed cover and consequential consideration for promotion solely on the basis of DG's Displeasure.

24. The Respondents have not placed any material demonstrating that DG's Displeasure has been accorded status of a statutory punishment equivalent to any penalty contemplated either under the BSF Act or the CCS framework. The sealed cover procedure contained in the DoPT OM dated 14.09.1992 proceeds on the principle that where proceedings conclude without imposition of a disqualifying penalty and the officer is otherwise entitled, the recommendations preserved in sealed



cover are liable to be acted upon. The impugned orders dated 16.07.2019 and 17.01.2024, proceed on the erroneous assumption that DG's Displeasure is a punitive measure, which by itself is sufficient to deny opening of the sealed cover. Such an approach overlooks the distinction between a recognised statutory penalty and an administrative expression of displeasure.

25. Accordingly, the impugned orders dated 16.07.2019 and 17.01.2024 are set aside.

26. We have been informed that the Petitioner has been promoted in the year 2020. The Respondents are directed to open the sealed cover pertaining to the DPCs dated 19.03.2018 and 09.01.2019 and grant the consequential/relief. The exercise be completed within a period of Six weeks from date.

27. As noted above, when the law in this regard had been long settled, a cost of Rs. 10,000/- is imposed upon the Respondents for unnecessarily dragging the litigation and making the Petitioner run from pillar to post for seeking enforcement of his rightful entitlements. The amount is directed to be deposited with the *Delhi High Court Legal Services Committee* within one week from date.

28. The writ petition stands disposed of in the above terms.

AMIT MAHAJAN, J

ANIL KSHETARPAL, J

MAY 19, 2026 / Jan

Signature Not Verified

Signed By: HARMINI K
KAUR
Signing Date: 22.05.2026
17:55:10

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