

(2021) 07 DEL CK 0141

In the Delhi High Court

Case No : Civil Writ Petition No. 1734 Of 2020

Manorama Singh And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 12-07-2021

Acts Referred:

Central Reserve Police Force (CRPF) Rules, 1955 — Rule 5(A)(1)(d)

Citation : (2021) 07 DEL CK 0141

Hon'ble Judges : Rajiv Sahai Endlaw, J; Amit Bansal, J

Bench : Division Bench

Advocate : Ankur Chhibber, T.P. Singh

Final Decision : Disposed Of

Judgement

Rajiv Sahai Endlaw, J

1. The six petitioners had earlier filed W.P.(C) No.8744/2011 and connected petition in this Court, impugning Rule 5(A)(1)(d) of the Central Reserve

Police Force (CRPF) Rules, 1955, whereby a separate cadre for women incumbents had been prescribed up to the rank of Inspector, for the Mahila

Battalion. The said writ petition was allowed vide judgment dated 24th May, 2013 and it was directed that, (i) a common seniority list of Sub

Inspectors (GD), irrespective of their gender, based on their entry point seniority, be prepared; (ii) in case any Mahila Sub Inspector had not

undertaken the course for promotion as Inspector, she shall be permitted to do so and appointed as Inspector and be deemed to have been appointed

immediately before a person lower than her as per the entry point seniority; (iii) such of the petitioners who had completed the promotion course, shall

be deemed to have been promoted as Inspector on the date when their immediate juniors were promoted; and, (iv) the aforesaid directions would also

bind the promotions from Inspector to Assistant Commandant.

2. The respondents preferred SLP (C) No.6547-6548/2014 against the aforesaid judgment and which was granted and converted to Civil Appeal

No.9840-9841/2014. Vide order dated 16th October, 2014, Supreme Court, though set aside the judgment of this Court insofar as striking down Rule

5(A)(1)(d) of the CRPF Rules, but directed that members belonging to the cadre of Sub Inspector and Inspector will be guided thereby and, the

rest of the cadres will also be guided by this judgment from prospective date and upheld the judgment of this Court insofar as it related to seniority

list of male and female Sub Inspectors, leaving the competent authority free to issue seniority list in accordance with the Rules till separate cadres

were created.

3. The contention of the counsel for the petitioners is, that (i) in the interregnum, immediate juniors of the petitioners at the point of entry had been

promoted as Assistant Commandants; and, (ii) though in pursuance to the judgments aforesaid of this Court and Supreme Court, the petitioners have

also been promoted as Assistant Commandants and given their due seniority but have not been granted the Senior Time Scale, owing to having

actually not served the requisite residency period at the post of Assistant Commandant and the petitioners apprehend that owing thereto, the

respondents CRPF, in the matter of promotion of the petitioners from the post of Assistant Commandant to Deputy Commandant, will also not grant

promotion to the petitioners from the date when their immediate juniors at the entry point were granted such promotion, thereby leaving the petitioners

to serve under those other juniors to them in the seniority list.

4. The counsel for the respondents CRPF states that as stated in the counter affidavit filed, the respondents CRPF are awaiting the decision in this

regard from the respondent no.1 Ministry of Home Affairs.

5. We have enquired from the counsel for the petitioners, whether not the purpose of providing for residency period is to enable personnel, before

promotion to the next post, to acquire the experience of the preceding post for the requisite period. It has been enquired, whether not promoting the

petitioners to Deputy Commandant, before the petitioners have served the requisite residency period of the post of Assistant Commandant, would

result in the petitioners acquiring the post of Deputy Commandant without

having the experience of the post of Assistant Commandant and be prejudicial to public interest.

6. We have given the example to the counsel for the petitioners, of a LLB graduate, on being wrongly denied registration as an Advocate, challenging the same and succeeding in the said challenge, say after three or four years, and have enquired, whether such registration, even if from a back date when registration was wrongly denied, would entitle such person to claim seniority as an Advocate including for the period for which he/she for the reason of being wrongly denied registration having in fact not practiced as an Advocate.

7. The counsel for the petitioners contends that unless the directions as sought by the petitioners are granted, the petitioners, in spite of succeeding in the petition aforesaid, would not be able to reap the benefits thereof. Reliance is placed on judgment dated 11th February, 2015 in W.P.(C)

No.8080/2015 titled Jay Pratap Singh Vs. Union of India and order dated 8th January, 2019 in W.P.(C) No.11765/2016 titled Dharam Narayan

Borana Vs. Union of India.

8. Undoubtedly the aforesaid judgments are in favour of the petitioners but we do not find any discussion therein on the question as has been posed to

the counsel for the petitioners. What we find is that the said question pits the personal rights of the petitioners against the public rights of citizenry to

have a public office of the post of Deputy Commandant in the respondents CRPF manned by a personnel who has served as Assistant Commandant

for the requisite residency period. Though undoubtedly the petitioners have been unable to serve the requisite residency period for reasons not

attributable to them and for the reason of delays in adjudication but the fact remains that the country would have Deputy Commandants, who have not

served for the required time as Assistant Commandants.

9. However in view of the judgments/orders in Jay Pratap Singh supra and Dharam Narayan Borana supra and considering ourselves bound thereby,

we are allowing this petition, in spite of highlighting the aforesaid issues.

10. The petition is thus allowed. The respondents CRPF are directed to treat the petitioners as having been promoted to the rank of Assistant

Commandant w.e.f. 11th November, 2010 i.e. the date from which their juniors were promoted, for all the purposes and to grant to the petitioners

Senior Time Scale w.e.f. 12th November, 2014 i.e. the date when their juniors have been granted the said benefit and to fix the pay of the petitioners

notionally w.e.f. 21st December, 2018, when they were actually promoted to the said post and to grant further arrears of pay and allowances from

that date till today.

11. The petition is disposed of.