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

+ **W.P.(C) 10323/2020**

KULDEEP SINGH

.....Petitioner

Through: **Mr. Nikhil Palli, Advocate**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr. Anurag Ahluwalia, CGSC
with Mr. Abhigyan Siddhant &
Mr. Nitnem Singh Ghuman, Advs.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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14.12.2020

[VIA VIDEO CONFERENCING]

CM APPL. 32673/2020 (for exemption from filing attested supporting affidavits)

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P.(C) 10323/2020

3. The petitioner, now a Deputy Commandant in the respondents Indo Tibetan Border Police (ITBP), by this petition *inter alia* seeks ante-dating of his promotion to the rank of Deputy Commandant w.e.f. the date his batchmates were promoted to the said post, along with all consequential benefits.



4. It is the case of the petitioner, (i) that he joined ITBP, as a direct recruit Assistant Commandant of the OBC category, on 8th May, 2010; (ii) that in the year 2015, he suffered a knee injury during the mandatory games held at the Battalion Headquarters; (iii) that he was on leave from 14th June, 2015 to 30th June, 2015, to recover therefrom; (iv) while on leave, on 29th June, 2015, the petitioner was informed of his selection for the commando course, necessary for promotion to the post of Deputy Commandant, and asked to report therefor on 3rd July, 2015; (v) that on 7th July, 2015, he was nominated for attachment of four months to the Army, also necessary for promotion to the rank of Deputy Commandant; (vi) owing to the aforesaid conflict of dates, the petitioner asked for deferment of the commando course; (vii) that in July, 2016, the petitioner again suffered a knee injury and from 26th September, 2016 to 26th December, 2016, was in 'low medical category' owing thereto; (viii) that the 'low medical category' of the petitioner was declared to be attributable to service; (ix) that though, the course which the petitioner at that age was required to undergo for promotion to the post of Deputy Commandant, was to be held from 18th February, 2018 to 20th March, 2018, but the petitioner, instead of being sent therefor, was sent for some other course; (x) on 14th September, 2018, the petitioner was not promoted as Deputy Commandant, because of having not undergone the requisite courses, though the contemporaries and juniors of the petitioner were so promoted; (xi) the representation dated 19th September, 2018 of the petitioner was rejected on 15th October, 2018; (xii) though the petitioner made another representation dated 21st October, 2018 but no response was received thereto; (xiii) the petitioner was ultimately



promoted as Deputy Commandant on 19th February, 2019 but without restoring his seniority; and, (xiv) the petitioner submitted another representation dated 25th March, 2019, which was rejected on 3rd September, 2019.

5. It prima facie appears that seniority of the petitioner in the rank of the Deputy Commandant has been deprived, without any fault attributable to the petitioner.

6. The counsel for the respondents ITBP states that instructions have not been received.

7. Issue notice.

8. Notice is accepted by the counsel for the respondents ITBP.

9. Counter affidavit be filed within 8 weeks. Rejoinder thereto, if any be filed within further 4 weeks thereafter.

10. List on 13th April, 2021.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

DECEMBER 14, 2020

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