



2025:DHC:1423-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04.03.2025

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W.P.(C) 4166/2020 & CM APPL. 31774/2021

PRAMOD KUMAR KAUSHIK (AGED ABOUT 55 YEARS)

.....Petitioner

Through: Mr.R.K. Shukla, Adv.

versus

UNION OF INDIA THROUGH & ORS.

.....Respondents

Through: Mr. Manish Mohan CGSC, Mr.
Jatin Teotia, Ms.Aishani Mohan
Mr.Varenyum, Advs. with
Mr.Govind Yadav, DC/GD.

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 praying for the following reliefs:-

“(a) to issue a writ in the nature of mandamus or such other appropriate order or directions, thereby declaring the Memorandum dated 19.09.2019 related to start process for promotion of Assistant Commandant (Accounts Officer) in the rank of Deputy Commandant (Accounts Officer) in accounts cadre of ITBP as illegal and arbitrary in view of pendency of dispute related to Accounts cadre or directing the respondents to hold in abeyance promotion to the post of Dy. Commandant (Accounts



Officer) in accounts cadre in ITBPF from assistant Commandant (Accounts Officer).”

2. A Full Bench of this Court by its Order dated 14.02.2025, passed in WP(C) 1774/2019, titled ***Naresh Kumar and Ors. v. Union of India and Ors.***, has answered the perceived issues in the Judgment of this Court in ***Pramod Kumar Kaushik & Ors. v. Union of India & Ors.*** (Judgment dated 07.01.2019 passed in WP (C) 10139/2009 and WP (C) 1415/2012), by holding as under:-

“24. Having given our thoughtful consideration to this issue, we are of the view that when appointment under the Recruitment Rules of 1999 was clearly on the basis of assessment of performance of all the eligible candidates and not merely on the basis of their willingness, it would be highly unjust and unfair to grant them the benefit of their past seniority on the post of Inspector (CM). In our opinion, as has been noted by the Division Bench in Parmod Kumar Kaushik (supra), once selection for absorption being merit based and on the basis of assessment of performance, it would not be permissible to grant seniority to Inspectors (Accountant) simply on the basis of their past service as Inspectors (CM). We find that the learned Division Bench found that by application of the OMs dated 29.05.1986 and 27.03.2001, a situation had arisen where Inspectors (CM) who, despite their seniority were, not selected for absorption as Inspector (Accountant) in the initial selection process because of their low merit but were absorbed only in the subsequent absorption process gained seniority who were selected as Inspector (Accountant) prior to them on merit.

25. The learned Division Bench, therefore, found that permitting such candidates who were not selected in the initial process to steal



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Recruitment Rules of 2012 is unsustainable. We, accordingly, clarify that all persons who have been or are absorbed as Inspectors (Accountant) under the Recruitment Rules of 2012 will be entitled to counting of their seniority in an equivalent grade in their parent department before the date of their absorption for the purposes of fixing their seniority in the post of Inspector (Accountant).”

3. In view of the above clarification, nothing further survives in the present petition, the respondent should act on basis thereof as far as a promotion to the post of Deputy Commandant (Accounts Officer) is concerned.
4. The petition is disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

MARCH 4, 2025/rv/IK

Click here to check corrigendum, if any