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

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Date of Decision : 21.01.2026

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W.P.(C) 719/2026

MUDE SAI NAICK

.....Petitioner

Through: Mr Abhishek Sharma, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through:

Mr Kameshwar Nath Mishra, SPC,
Ms Vidya Mishra, Mr Jitender
Kumar, GP, Mr Sanjay Kumar, Mr N
K Singh, Inspectors, Mr R P Selvam,
and Mr Sunder Lal, CISF in person.

Mr Jitender Kumar Tripathi and Mr
Arunav Padhi, Advocate.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed with the following prayers.

“i. That a writ in the nature of Certiorari may kindly be issued and the Impugned order (Annexure P- 5) dated 03.07.2025 passed by the respondent department, qua the petitioner, may kindly be quashed and set aside, in the interest of justice.

ii) That a writ in the nature of mandamus may kindly be issued in favour of the petitioner, directing the respondent department to grant promotion, seniority, pay fixation against the post of Deputy Commandant, with effect from the date on which the similarly



situated employees were promoted i.e with effect from 28" May, 2025, along with all consequential benefits, with arrears along with interest at market rates in the interest of justice."

2. It is the case of the petitioner that the petitioner on 05.10.2020 was appointed as Assistant Commandant ('AC') with the respondents/Central Industrial Security Force ('CISF'). On 06.10.2022, the petitioner having completed two years of requisite service was confirmed on the said post.

3. On 02.10.2023, he gave a technical resignation from the post of AC to enable him to join as Mandal Parishad Development Officer in the Panchayati Raj Department in a State Cadre.

4. He re-joined the CISF on 07.10.2024. His seniority in the rank of AC has been retained as per DoPT guidelines. The recruitment rules for promotion to the post of Deputy Commandant ('DC') contemplates eligibility as minimum of six years of regular service in the grade of AC. Concedingly, the total qualifying service of the petitioner in the rank of AC excluding the period of service put in by him as Mandal Parishad Development Officer as on 01.01.2025 (i.e. the date of eligibility) was 02 years 06 months and 23 days only.

5. The case of the petitioner and so contended by Mr. Abhishek Sharma, learned counsel for the petitioner is that note-1 to the recruitment rules contemplates that when juniors, who have completed their qualifying/eligibility service are being considered for promotion, their seniors would be considered, provided they are not short of requisite qualifying/eligibility service by more than half of such qualifying/eligibility service or two years, whichever is less and have successfully completed



their probation period for next higher growth along with their juniors, who have already such qualifying/eligibility service.

6. According to the counsel, the claim of the petitioner has been rejected by the respondents vide the impugned order dated 03.07.2025. The contents of the same are reproduced as under:-

“Sub:-Representation for consideration in DPC for promotion to the rank of DC.

It is to inform that Shri M. Sai Naick, AC/Exe., CISF Unit SUVNL Jhakri, has submitted a representation dated 11.06.2025 directly to this Directorate, requesting consideration of his case for promotion to the rank of Deputy Commandant.

2. The matter has been examined in detail at this Directorate. The officer had joined the CISF on 05.10.2020 and subsequently tendered technical resignation w.e.f. 04.02.2023 to join as Mandal Parishad Development Officer (MPDO). He rejoined CISF on 07.10.2024 and his seniority in the rank of AC/Exe. has been retained as per DoP&T guidelines.

3. However, as per DoP&T OM No. 28020/1/2010-Estt.(C) dated 17.08.2016, the period of service rendered outside the organization during the course of technical resignation cannot be counted towards qualifying service for promotion. Accordingly, the officer's total qualifying service in the rank of AC/Exe., as on the crucial date of 01.01.2025, is 2 years, 6 months, and 23 days only.

4. As per the Recruitment Rules, a minimum of 6 years of regular service in the grade of AC/Exe. is required for promotion to the rank of DC. While a relaxation of up to 2 years is permissible under the senior-junior clause, the officer falls short by 3 years, 5 months, and 7 days, which exceeds the permissible limit for such relaxation.

5 In view of the above, Shri M. Sai Naick, AC/Exe., does not meet the eligibility criteria for inclusion in the Zone of Consideration for promotion to the rank of DC as on 01.01.2025. Accordingly, his name was not included in the



Zone of Consideration for the said DPC.

- 6. *The officer may be informed accordingly.*
- 7. *This issues with the approval of the competent authority. ”*

7. Mr. Sharma contends that, as juniors to the petitioner in the grade of AC were considered for promotion to the post of DC, he should also be considered. The question, which arises for consideration is whether the petitioner fulfils the eligibility as is contemplated in the recruitment rules.

8. We have already reproduced the stand of the respondents in this regard i.e. the petitioner does not meet the eligibility criteria for including in the zone of consideration for promotion to the rank of DC as on 01.01.2025. According to them, the relaxation of upto 02 years is permissible under the senior/junior clause but the officer falls short of 03 years 05 months and 07 days, which exceeds the permissible limits for such relaxation. This according to the respondents is because of the petitioner's eligibility on crucial date of 01.01.2025 is 02 years, 6 months and 23 days only.

9. We must say here the Senior/Junior Clause contemplate that the officer under consideration if not short of requisite qualifying/eligibility service by more than half of such qualifying service or two years, whichever is less is eligible for the consideration.

10. In the case of the petitioner, he is short of requisite qualifying/eligibility service, even as per note-1. This we say so because an officer must have more than 03 years of service in the grade of AC but the note-1 does not limit to 03 years, it also contemplates “*or two years, whichever is less*”. The submission of the learned counsel for the petitioner is that since the petitioner has 02 years of service in the AC as such he is eligible.



11. There is a fallacy in the submission of the learned counsel for the petitioner. The rules have to be read from the perspective that eligibility is not short by more than half of such qualifying/eligibility service or 02 years, whichever is less. So, it means the eligibility is not short by either half of qualifying service or two years, whichever is less. It follows in the context of promotion rules where eligibility is 06 years, an AC must not be short by half of qualifying service or 02 years, whichever is less. He should have the qualifying/eligibility service of 03 years or 04 years. The respondents have explained the issue by filing a chart in the following manner:-

| SI No | Particulars | Details (DD/MM/YYYY) |
|-------|--|---|
| 1 | Initial appointment in CISF as Assistant Commandant/Exe | 05/10/2020 |
| 2 | Technical resignation from CISF | 04/02/2023 |
| 3 | Re-joined CISF | 07/10/2024 |
| 4 | Period of stay outside CISF (not countable for promotion as per para 2.6 of DoPT OM dated 17.08.2016) | 04/02/2023 to 06/10/2024 (i.e.) 04/02/2023 - 03/02/2024 = 1 year 04/02/2024 - 06/10/2024 = 8 months, 03 days Total = 1 year, 8 Months, 03 Days |
| 5 | Qualifying service required as per Recruitment Rules for promotion to DC/Exe | 06 years as on crucial date |
| 6 | Crucial Date | 01/01/2025 |
| 7 | Actual qualifying service completed by petitioner as on crucial date (i.e.) 01/01/2025 | 05/10/2020 - 03/02/2023 & 07/10/2024 - 31/12/2024 (i.e.) 05/10/2020 - 04/10/2022 = 02 years 05/10/2022 - 03/02/2023 = 04 months 07/10/2024 - 31/12/2024 = 02 months 25 days Total = 02 years, 06 months, 25 days |
| 8 | Shortage of service as on 01/01/2025 | 03 years, 05 months, 05 days |
| 9 | Permissible <u>shortage of service</u> under Senior-Junior clause as per Recruitment Rules. | Half of required period of service (or) 02 years whichever is less. (in this case, it is 02 years) |

12. So, the shortage of service of 02 years would only be applicable. It means, as the petitioner does not have 4 years of service, the petitioner was not eligible for consideration. If we were to agree with the petitioner, it shall follow that the petitioner having 02 years of service as AC, he is eligible.



We cannot agree with that stand, for the reason the note-1 contemplate “*short of qualifying service*”.

13. In view of the above, we hold the present petition is without any merit and the same is, dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JANUARY 21, 2026/sr