

# Amended Writ Petition) Dinesh Singh ... vs Union Of India & Ors on 21 May, 2021

**Author: Rajiv Sahai Endlaw**

**Bench: Rajiv Sahai Endlaw, Amit Bansal**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P.(C) 5046/2021 & C.M. No. 16791/2021 (for taking on record the amended writ petition)  
DINESH SINGH NEGI & ANR. .... Petitioners  
Through: Mr. Rashmi Gogoi, Ms. Mallika Bhatia and Mr. Anurag Sahay, Advocates.

versus

UNION OF INDIA & ORS. .... Respondents  
Through: Mr. Shahan Ulla, Advocate for Mr. Ravi Prakash, CGSC.

CORAM:  
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW  
HON'BLE MR. JUSTICE AMIT BANSAL  
ORDER

% 21.05.2021  
[VIA VIDEO CONFERENCING]

C.Ms. No. 15449/2021 and 16792/2021 (both for exemption)

1. Allowed, subject to just exceptions and as per extant rules.

2. The application is disposed of.

W.P.(C) 5046/2021 and C.M. No. 15450/2021(for stay)

3. The two petitioners, being Assistant Sub Inspectors/GD in the respondent no.3 Sashastra Seema Bal (SSB), have filed this petition impugning their non-absorption as accountants in the respondent no.4, being the office of the Principal Chief Controller of Accounts (Home), Ministry of Home Affairs.

4. It is the case of the petitioners, that (i) they were enrolled as Constable/GD in the respondent no.3 SSB on 30th June, 1995 and 8th October, 1991 respectively; (ii) they were sent on deputation to the respondent no.4 Principal Chief Controller of Accounts (Home) on 2nd June, 2014 alongwith 31

others; (iii) while still on deputation, they were promoted in their parent organisation i.e. respondent no.3 SSB, as Assistant Sub Inspector/GD; (iv) though the deputation was initially for 3 years but was extended from time to time; (v) on 14th August, 2019, the Joint Controller General of Accounts of the respondent no.2 Controller General of Accounts, Ministry of Finance, as a one-time measure initiated the process to fill up 10% of the vacancies in the post of the Accountants, by absorption; (vi) at that time, there were 20 deputationists from respondent no.3 SSB in the office of the respondent no.4 Principal Chief Controller of Accounts (Home) and 14 of which, including the petitioners, were granted a No Objection Certificate (NOC) by respondent no.3 SSB for consideration for absorption; and, (vii) the petitioners were considered by the Departmental Promotion Committee (DPC) held by the respondent no.4 Principal Chief Controller of Accounts (Home) for absorption but were not absorbed and orders for their repatriation to the parent cadre, i.e. respondent no.3 SSB have been issued.

5. We have enquired from the counsel for the petitioners that once the petitioners were considered by the DPC held for the purposes of absorption, how is their non-selection by the DPC for absorption challengeable under Article 226 of the Constitution of India.

6. We have further enquired, the parameters of challenging the findings of the DPC.

7. The counsel for the petitioners contends that others who did not even qualify for absorption and who have been impleaded as respondents to this petition, have been absorbed. With reference to the written note of arguments, which has been e-mailed by the counsel for the respondents today morning, it is contended that the criteria for absorption was minimum 18 years of service and some of the private respondents, who have been absorbed, did not fulfil the said criteria.

8. Though the counsel for the petitioners has also contended that those who are juniors to the petitioners have been absorbed but in our prima facie view, seniority cannot be a criteria for absorption of deputationists and the discretion of the DPC for absorbing the most fit persons cannot be found fault with.

9. There is a request for adjournment on behalf of Mr. Ravi Prakash, Advocate for the respondents.

10. List on 31st May, 2021.

11. We make it clear that there is no stay of repatriation of the petitioners to their parent cadre.

RAJIV SAHAI ENDLAW, J AMIT BANSAL, J MAY 21, 2021 at