

(2021) 07 DEL CK 0132

In the Delhi High Court

Case No : Civil Writ Petition No. 6546 Of 2021

HC/GD Vimlesh Vedwal

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 15-07-2021

Acts Referred:

Citation : (2021) 07 DEL CK 0132

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

Bench : Division Bench

Advocate : Nand Lal Bareja, Neeraj, Himanshu Pathak, Vedansh Anand, Rudra Paliwal, Ankit Raj

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J

CM No.20559/2021 (for exemption)

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

2. The application is disposed of.

W.P.(C) 6546/2021 & CM No.20558/2021(for ad interim ex parte relief)

3. The filling up of the post of Head Constable General Duty (HC/GD) in the respondents Central Reserve Police Force (CRPF), is through three

modes, i.e., 85% by promotion from feeder cadre, 10% through Limited Departmental Competitive Examination (LDCE) and 5% through Direct

Recruitment under the sports category.

4. It is the case of the petitioner, that the petitioner, a Constable in the respondents CRPF, participated in LDCE advertised in the year 2015 for 1641

vacancies for the post of HC/GD, and took the written test on 14th February

2016 and that in the result declared on 21st September 2016 of the said LDCE, the petitioner was at serial No. 1135 and was promoted as a Head Constable.

5. The grievance of the petitioner is, that though vide letter dated 28th October 2016, the respondents CRPF had intimated, that those promoted as

Head Constables pursuant to LDCE-2015 would get seniority as Head Constables from 31st December 2015 but have subsequently, vide

communication dated 18th August 2020 intimated that the seniority as Head Constable would be conferred on the petitioner w.e.f. 21st September

2016 i.e. the date on which the result of the LDCE was declared.

6. The principal argument of the counsel of the petitioner is that valuable right of seniority of the petitioner has been affected without giving any notice

to the petitioner and/or without giving any opportunity of hearing to the petitioner.

7. We have however enquired from the counsel for the petitioner, the Rule/Law whereunder the petitioner is entitled to seniority in the cadre of Head

Constables, from 31st December 2015 i.e. from 9 months before the date when the result even of the LDCE, pursuant to succeeding wherein the

petitioner was promoted as Head Constable, was announced.

8. The counsel for the petitioner, without citing any Rule/Law whereunder the petitioner is entitled to seniority in a cadre from before even being borne

in the cadre, merely contends that no prejudicial action should have been taken without complying with the principles of natural justice.

9. In the facts of the present case, we are of the opinion that non-grant of hearing before taking the action, though undoubtedly prejudicially affecting

the petitioner, is not material, inviting any interference. Seniority in a cadre is governed by Law and Rules and even if some officials of the

respondents CRPF have erroneously, vide letter dated 28th October 2016 communicated that the seniority of the successful candidates in LDCE-2015

will be from 31 st December 2015, it cannot be said that any right vested in the petitioner who had not even cleared the LDCE on that date, or that for

taking away that right, principles of natural justice were to be complied with.

10. Else, Supreme Court in K. Meghachandra Singh Vs. Ningam Siro (2020) 5 SCC 689 has held that seniority cannot be claimed from a date before

which the incumbent was borne in the cadre. The petitioner was borne in the

cadre of Head Constable, not before the declaration of the result of LDCE and cannot claim seniority from a date prior thereto.

11. No ground for entertaining the writ petition is thus made out. Dismissed.