
(1999) 10 DEL CK 0024

In the Delhi High Court

Case No : Civil Writ Petition No. 427 of 1984

J.P.S. Bhandari

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 04-10-1999

Acts Referred:

Citation : (2000) 1 AD 286 : (1999) 82 DLT 702

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. R. Venkataramani and Mr. Suman Doval, for the Appellant; Mr. Y.D. Nagar, for the Respondent

Judgement

A.K. Sikri, J.—In this petition, the petitioner seeks quashing of letter dated 8th July, 1990 to the extent it proposes to include the petitioner's name in the seniority list for the year 1977. His case is that he is was appointed in the year 1970 and as per the Government own instructions from time to time his seniority should have been fixed from the date of his initial appointment.

2. The petitioner was employed as Operator Grade-II in Indian Drugs and Pharmaceutical Limited (hereinafter referred to as IDPL, for short) with effect from 16th May, 1970. In January, 1977, Central Industrial Security Force (hereinafter referred to as CISF, for short) took over the security of IDPL and in the process the services of the petitioner were also taken over by the CISF.

3. The Government of India issued circular letter dated 17th July, 1977 in which principles of the determining the seniority of various persons employed in CISF were stated and paragraph 2 thereof related to fixation of inter se seniority, amongst the personnel belonging to each category. The relevant portion thereof reads as under :-

"Members of Watch & Ward Organisations of Industrial Undertakings absorbed in CISF :-

The inter se seniority amongst these personnel shall be determined on the basis of commencement of service in a post/posts held by them at the time of their absorption in the CISF.

(i) Notwithstanding anything mentioned in these instructions, the inter-se seniority of the personnel belonging to a particular undertaking shall remain undisturbed on their absorption in a rank in the CISF. Provided that if two or more ranks of an Industrial Undertaking are declared as equivalent to a rank in the CISF the date of commencement of the service in the rank shall be the date from which the lowest of the equivalent ranks was held."

4. In this very circular dated 17th July, 1976 it is stipulated that "service" meant continuous un-broken service rendered in an equivalent post in the security wing of undertakings after appointment thereto, on a regular, basis, prior to the date of induction in the CISF. There is no dispute that the petitioner was appointed in an equivalent post as Security Sub-Inspector in IDPL on regular basis and he has rendered continuous un-broken service. In view of some doubt about the implementation of the aforesaid circular, Government of India issued another circular dated 10th December, 1990 which, inter alia, mentions about the inter se seniority amongst the personnel of ex-Watch and Ward other than those who have been retrenched from the public sector undertakings prior to their joining the force. In this circular again it is clearly mentioned that a person selected in one calendar year shall rank senior to those selected in the subsequent year. The relative seniority of such persons have to be arranged in the order of their dates of appointment. The Explanation given in the circular also clarifies this.

5. Notwithstanding the aforesaid principles laid down by the respondent themselves for fixing all inter se seniority, the petitioner was given impugned letter dated 8th July, 1982 in which it was mentioned that he will get the benefit of such seniority with effect from 16th May, 1970 but in the year 1977. Although it is mentioned that benefit of service has to be given with effect from 16th May, 1970, however he is put in the seniority list Along with persons recruited in the year 1977 instead of being clubbed with those persons recruited in the year 1970 as per his date of appointment. This letter dated 8th July, 1982 is clearly contrary to the aforesaid Government of India instructions relating to fixation of inter se seniority. Counsel for the respondent could not controvert this position and conceded that this portion of the letter dated 8th July, 1982 is contrary to the Government of India instruction.

6. This writ petition is allowed. Rule is made absolute. Letter dated 8th July, 1982 to the extent it proposes to include the petitioner's name in the seniority list for the year 1977 is hereby quashed. The respondents are directed to assign the petitioner proper place in the seniority list on the basis of his date of appointment in service in the rank with effect from 16th May, 1970 and give him consequential benefit in accordance with his rightful place in the seniority list.