

(2016) 08 DEL CK 0113
In the Delhi High Court
Case No : W.P.(C) 7033 of 2016

Karan Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 10-08-2016

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 226

Citation : (2016) 8 ADDelhi 122

Hon'ble Judges : G.S. Sistani And I.S. Mehta, JJ.

Bench : Division Bench

Advocate : Mr. Manoj V. George, Advocate, for the Petitioner; Ms. Anubha Bhardwaj, Mr. Dev P. Bhardwaj, Advocates, for the Respondent No.1/UOI; Mr. Sanjeev Bhandari, Special Public Prosecutor, for the Respondent No.2/CBI

Final Decision : Disposed Off

Judgement

G.S. Sistani, J. (Oral)—At the outset, learned counsel for the petitioner submits that the petitioner restricts his prayer only to the extent that the respondents be directed to comply with the directions contained in the order dated 20th January, 2014 passed by the Central Administrative Tribunal (hereinafter referred to as "the Tribunal") in OA No. 3095/2013.

2. Notice to show cause as to why petition be not admitted.

3. Ms. Anubha Bhardwaj, learned counsel accepts notice on behalf of respondent No. 1/UOI. Mr. Sanjeev Bhandari, learned Special Public Prosecutor for CBI accepts notice on behalf of respondent No. 2.

4. The brief facts stated in the writ petition are that the petitioner joined the services of Central Industrial Security Force (in short CISF) as a Constable in the year 1982. In 1998, he was promoted to the post of Head Constable. He was sent on deputation to the respondent No. 2/CBI in the year 2006 for a period of three years. During his tenure as a Deputationist, the petitioner was nominated

for training in the CBI Academy in the year 2007.

5. Thereafter, the deputation of the petitioner was extended from time to time till 21.08.2013 and during the same he was also appointed as ASI (Exe). The petitioner claims that he made an application seeking absorption in the respondent No. 2 organisation on 12th August, 2012. Thereafter, another application for absorption was filed on 23rd May, 2013. However, by an office order No. 257/2013 dated 22nd August, 2013, he stood relieved and was repatriated. Petitioner was directed to join his parent place of employment/CISF. The petitioner laid challenge to this order of repatriation by filing an OA No. 3095/2013 before the Tribunal. The OA was withdrawn by the petitioner under a mistaken belief and later on realising his mistake he filed a review application, being RA 174/2013. The order of withdrawal was recalled and vide order dated 20th January, 2014, a direction was issued to respondents to consider the representation made by the petitioner and to decide the same within a stipulated period.

6. The operative part of the order dated 20th January, 2014 passed by the Tribunal in OA 3095/2013 reads as under:

"OA No.3095/2013

8. As has been noticed herein above, learned counsel for applicant submitted that the applicant would be satisfied if the respondents are directed to treat the present original application as representation on his behalf and decide the same. It would be unfair to the respondents if they are directed to treat the present original application, which is filed in the format prescribed under Section 19 of the Administrative Tribunals Act, 1985 as representation and glean through it to identify the plea raised by the applicant. Nevertheless, it would be open to the applicant to make a detailed representation to the respondents espousing his claim within two months from the date of receipt of a copy of this order. If such representation is made by the applicant, the respondents would decide the same within four weeks thereafter under intimation to the applicant.

9. The original application stands disposed of. No costs."

7. Subsequently the petitioner again approached the Tribunal by filing OA No.810/2014 seeking the following reliefs:-

Page 30 "a) Quash and set aside the impugned order dated 22.08.2013 (Annexure-A) and declare the same as illegal and arbitrary.

b) Quash and set aside the impugned memorandum dated 12.02.2014 (Annexure-A) and declare the same as illegal and arbitrary.

c) Hold and declare that the applicant stands deemed absorbed, in the CBI, from the date applicant became eligible for absorption, like other persons.

d) Direct the Respondents to pass appropriate orders, absorbing the applicant from the date of joining the Central Bureau of Investigation.

e) Any other order that may be deemed fit and appropriate in the circumstance of the case may also be passed.

"Interim Relief:

"a) Direct the Respondents not to relieve/repatriate the Applicant from the present post of posting.

b) stay the operation of impugned order dated 22.08.2013, Annexure-A.

c) Direct the Respondents to allow the applicant join his duty till the pending of the instant OA as he was doing prior to office order No. 257/2013 dated 22.08.2013, letter No. 7005/A-20/K-101/PF/2008/EO.II passed by Respondent.

d) To issue any other or further order or directions as deemed just and proper by this Hon"ble Tribunal as per facts and circumstances of the case protecting rights and interest of the applicant."

8. The OA 810/2014 filed by the petitioner was dismissed by an order dated 10th February, 2016. The petitioner submits and the respondents have acknowledged that a 64 page representation was filed by the petitioner requesting the respondents to absorb him as an ASI in respondent No.2/CBI permanently from the date of absorption of his colleagues.

9. Since the order dated 20th January, 2014, passed by the Tribunal has not been complied with, we dispose of this writ petition with the directions to the respondents to comply with the order passed by the Tribunal dated 20th January, 2014 in OA No. 3095/2013 and to decide the representation of the petitioner within a period of four weeks from the receipt of this order, if not, already decided. In case, the representation of the petitioner has already been decided, a copy of the order will be served upon the petitioner on the address mentioned in this writ petition.

10. With these directions the writ petition is disposed of.

11. Dasti.