

(2012) 09 DEL CK 0172

In the Delhi High Court

Case No : Writ Petition (C) No. 5928 of 2012

Lalit Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-09-2012

Acts Referred:

Citation : (2012) 194 DLT 162

Hon'ble Judges : Pradeep Nandrajog, J; Manmohan Singh, J

Bench : Division Bench

Advocate : R.K. Shukla, for the Appellant; Amrit Pal Singh, CGSC with Mr. Rupinder Pal Singh, Advocate Along With Mr. Pawan Kumar, 2I/C, ITBP in Person, for the Respondent

Judgement

Pradeep Nandrajog, J.—Counsel as above appears for the respondents and states that all relevant documents have been filed along with the writ petition and thus the same may be heard for disposal today itself. Jawans and Officers served under various Central Para-Military Forces are routinely deployed for security in Indian Missions Abroad as also for security duty under the aegis of the United Nations.

2. They are subjected to a screening test at the departmental level. Of course only those who have the requisite qualifications in terms of service rendered etc. are screened.

3. If the deployment is under the aegis of the United Nations, personnel from the United Nations conduct their own tests. One such test conducted is a firing test.

4. The petitioner, an Inspector in ITBP, having the requisite qualifications, was empanelled by ITBP for his name to be included in the panel for deployment under the aegis of United Nations. The Officers of United Nations conducted a firing test between July 15 and July 21, 2012, at which the petitioner failed.

5. Vide impugned order dated August 30, 2012, informing the petitioner that he

could not be deputed to a foreign mission on account of he having failed the firing test conducted by United Nations Personnel, it was also informed to the petitioner that his name had been removed from the panel and he would not be considered for nomination in the next 5 years for foreign deputation mission.

6. The petitioner is aggrieved by the fact that he has been held not entitled to be even considered, during the next 5 years, for foreign deputation mission.

7. There exists an order dated May 18, 2012 being Standing Order No. 04/2012. The order contains the policy decision with respect to the methodology for empanelment in UN Mission/Indian Mission Abroad. After laying down the eligibility criteria and the selection procedure, vide serial No.(2) (xii) it stands stipulated as under:-"Disqualification in the test shall not debar a person to appear in the subsequent fresh selection, if he fulfills the required criteria."

8. Suffice would it be to state that the subject is an occupied territory in the form of a Standing Order No. 04/2012 and thus the executive decision on the subject cannot be contrary to the policy notified.

9. In other words, failure or disqualification in a particular test cannot debar a person to appear in the subsequent fresh selection. The subsequent fresh selection would be the one which is held immediately thereafter. It would clearly be arbitrary and beyond the powers of the authority concerned to hold a person not even entitled to be considered for fresh selection in the next 5 years.

10. Accordingly, we dispose of the writ petition quashing the impugned order dated August 30, 2012 in so far it records that the petitioner would not be considered to be nominated for the next 5 years for foreign deputation mission.

11. Mandamus is issued that subject to the petitioner fulfilling the eligibility norms, he would be considered for foreign deputation mission as and when the next selection procedure is put into place.

12. No costs. Dasti.