

(2022) 04 DEL CK 0226

In the Delhi High Court

Case No : Civil Writ Petition No. 6679 Of 2022

Md. Abdul Ahad Azim

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 27-04-2022

Acts Referred:

Citation : (2022) 04 DEL CK 0226

Hon'ble Judges : Suresh Kumar Kait, J;Sudhir Kumar Jain, J

Bench : Division Bench

Advocate : Sangeeta Chandra, Divjeet Singh Vohra, Salib Gurdeep Singh

Final Decision : Dismissed

Judgement

CM APPL. 20280/2022 (exemption)

1. The application is allowed, with a direction to the applicant to file requisite certified copies/typed copies and annexures with proper margins within four weeks.

2. The application is accordingly disposed of.

W.P.(C) 6679/2022

3. Vide the present writ petition, the petitioner is seeking quashing of impugned letter dated 30.08.2018 issued by the respondent authority declaring the petitioner ineligible for recruitment under the new Recruitment Rules, 2010 of Constable (Tradesmen) (Group 'C' Post); directions to the respondents for issuance of the joining letter to the petitioner on the post of Follower Group 'D' post (Washermen) to which he was already selected in the recruitment process of October, 2008 which now stands merged with Group 'C' posts.

4. It is not in dispute that the petitioner was selected to the post of enrolled Follower (Group 'D' posts) (Washerman) in the recruitment process of October, 2008. Thereafter, vide order dated 29.10.2009 issued by Ministry of Home

Affairs, Government of India declared as under:

"6th Pay Commission in its report vide recommendation in para 7.19.45 recommended that all the posts in CPMFs should be combatised like the position existing in the Defence Forces. The Commission, accordingly, recommended abolition of the cadre of Followers. The Commission further recommended that any further recruitment in the grade of Followers should cease immediately. The existing Followers should initially be placed in the -1S pay band (separately being recommended by the Commission for all Group D categories till the time they are re-deployed in the Group C posts). Proper training should be given to make them combatised and on successful completion of such training, they should be absorbed in the grade of combatant Constables against regular vacancies. The Commission finally recommended that all non essential jobs that can be done by outsiders without any operational problems but are presently being done by Followers, should henceforth be contracted out or outsourced. The above recommendation was accepted by the Government.

2. Keeping in view the operation problems in outsourcing the jobs presently being done by the Followers, the proposal for continuation of the Cadre of Followers in CPMFs has been reconsidered by the Government and the following decisions have now been taken in the matter:-

- i) All posts of Followers/other Gr. D posts in CPMFs may be converted into Group C posts and be placed in PB-I with grade pay of Rs.2000/-.
- ii) After conversion of posts as proposed above the posts may be designated as Rifleman (name of trade) in case of Assam Rifles and Constable (name of trade) in case of other CPMFs, as for example Constable (Carpenter), Constable (Cook) etc.
- iii) RRs will be modified to make recruitment in each trade and for such posts will have no linkage with the RRs for the post of Constable/ General Duty and Constable/ Driver.
- iv) There will be no change in the total sanctioned strength of Battalion/ Company due to conversion of the posts of Followers in / as Gr. C posts.
- v) CPFs will submit the proposals for sanctioning of posts in the grade of Constable (Name of trade) against the posts which had been excluded earlier, while sanctioning other posts, on account of the recommendations of the 6th CPC for the abolition of the posts Followers/ Group D posts.

3. The above decisions will be implemented by CPMFs subject to the following conditions:-

- i) The recruitment qualifications will not be lower than Matriculation ITI i.e. the lowest qualification prescribed by the 6th CPC for entry into Government Service.
- ii) The functions of the various trades would be gone into and multi-skilling introduced. The additional posts to be created should take into account the

impact of outsourcing (particularly in Static Formations) and multi-skilling; and

iii) The practice of deployment of Constables/ Followers at the residences of officers will be stopped forthwith and wherever they are required to be deployed at the residences of officers due to operation reasons, it will be done after obtaining a prior sanction of the competent authority.

4. This issues with the approval of MoF's vide their U.O. No.7.19/24/2009 dated 20.10.2009 and with concurrence of Integrated Finance Division of this Ministry vide their Dy. No.45403/Fin.III/2009 dated 28.10.2009."

5. While the petitioner was pursuing with the respondents for the outcome of the selection process of 2008, Frontier Headquarters of Border Security Force (BSF), Humhama, Kashmir vide communication dated 30.08.2018 informed that the petitioner had appeared in various stages of the subject recruitment of Group 'D' posts at STC BSF Srinagar being a ward (son) of BSF serving personnel (blood relation) and was shortlisted for selection to the Group 'D' post i.e. Enrolled Followers alongwith other 38 candidates for various trades. However, in the meantime, 6th Central Pay Commission report was implemented by Government of India wherein it was recommended to abolish the cadre of 'Followers' (Group 'D'). The Commission further recommended that recruitment in the Grade of Followers should cease immediately. Accordingly, ongoing process of recruitment of Group 'D' Enrolled Followers in BSF was kept in abeyance and clarification was sought from MHA. MHA, vide its order No.11/27011/26/2009/PF-11 dated 29.10.2009 conveyed decision to cease the recruitment in the grade of Enrolled Followers (Group 'D') in CPMFs immediately. The existing posts of Enrolled Followers were placed in Pay Band PB-1 with Grade Pay of 2000 in Group 'C' and designated them as Constable (Tradesmen) comprising Constable (Cook), Constable (Washermen), etc. as the case may be. Fresh Recruitment Rules for the post of Constable (Tradesmen) (Group 'C' post) were notified vide MHA G.S.R. No.131 dated 03.08.2010. It was further stated in the said communication that the petitioner was not meeting the eligibility conditions as per the fresh Recruitment Rules of Constable (Tradesmen) (Group 'C' post) which are as under:

"(a) not having of ITI/Experience Certificate and

(b) Less in height by 0.5 cm (petitioner's height was 167 cms against requirement of 167.5 cms as per revised RRs)."

6. It was further mentioned in the said communication that none of the 39 candidates of the Recruitment Centre of Headquarter, who were in the zone of consideration as per the earlier eligibility criteria of Enrolled Flower (Group 'D' post), were fulfilling the eligibility criteria as per the fresh recruitment rules for the post in question. Accordingly, the complete recruitment process was cancelled.

7. It is also not in dispute that respondent did not issue any appointment letter

to petitioner and other 38 candidates till date.

8. For the relief sought in the present petition, the petitioner earlier moved a writ petition, i.e. W.P.(C) 1102/2019, and the same was disposed of vide order dated 04.02.2019 by a Co-ordinate Bench of this Court and relevant portion of same is reproduced as under:

“2. Learned counsel for the Petitioners seeks leave to withdraw this petition with liberty to file a proper petition, including explaining the delay in approaching the Court for relief.

3. Dismissed as withdrawn with liberty as prayed for.”

9. It is pertinent to mention here that the petitioner has challenged the Recruitment Rules of 2010 whereas the petitioner was selected in the recruitment process of 2008 and the ground of the petitioner is that recruitment of 2010 cannot be applied on the recruitment process of 2008.

10. It is not in dispute that the recruitment process of 2008 was cancelled and none of the candidates selected from the said recruitment process were given appointment.

11. Moreover, when the petitioner earlier filed petition, i.e. W.P.(C) 1102/2019, even on that date, the petition was filed with delay and laches as is evident from order dated 04.02.2019 passed by Co-ordinate Bench of this Court. Even thereafter, the petitioner did not file petition for good 3 years.

12. Thereafter, the petitioner again filed the petition, i.e. the present petition, now and the delay is not properly explained.

13. Even otherwise, we find no merit in the present petition and the same is, accordingly, dismissed on merits as well as for the delay.