
(2021) 11 DEL CK 0211

In the Delhi High Court

Case No : Civil Writ Petition No. 13388 Of 2021

Pardeep

APPELLANT

Vs

Director General & Ors

RESPONDENT

Date of Decision : 26-11-2021

Acts Referred:

Citation : (2021) 11 DEL CK 0211

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Vishwendra Verma

Final Decision : Dismissed

Judgement

Navin Chawla, J

CM 42177/2021 (exemption)

Allowed, subject to all just exceptions.

W.P.(C) 13388/2021

1. This petition has been filed by the petitioner praying for a direction to the respondents to provide copies of examination result pertaining to the petitioner.

2. It is the case of the petitioner that the petitioner was discharged from services as Constable in the Railway Protection Force, without any reason, though he had performed his duties from 05.08.2020 to 14.08.2020. When the petitioner challenged the said order of discharge by way of a writ petition being WP(C) No.7645/2020, the respondents stated that the petitioner could not qualify even in the second attempt of the examination. Though the petitioner objected to the said statement and categorically submitted that he never appeared in the second attempt of the examination and even the marks of the first examination were not disclosed to him, the said writ petition was dismissed by this Court. The petitioner thereafter applied under the Right to Information Act, 2005

(hereinafter referred to as the 'Act') seeking answer sheets of the examinations as well as register by which the petitioner performed his duties at Gorakhpur from 05.08.2020 to 14.08.2020, however, the respondents by one or other reasons have not provided the same.

3. The learned counsel for the petitioner reiterates that the petitioner had not appeared in the second attempt of the examination and therefore, the respondents should be directed to produce the answer sheets of the said alleged examination. He submits that the petitioner apprehends that the said record may be destroyed with the efflux of time.

4. We have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

5. At the outset, we note that the petition is woefully short of giving complete particulars of the examination in question and the relevance thereof. For the said purpose, one has necessarily to refer to the order dated 08.10.2020 passed by this Court in the earlier petition filed by the petitioner being WP(C) No.7645/2020, which in turn also noticed that the said petition also appeared to be intentionally drafted with confusing pleas and averments to create confusion and to have notice issued thereon and press for interim stay. The relevant observation of the Court is reproduced hereinbelow:

"6. To say the least, on a reading of the petition, the challenge made therein could not be understood and the averments in the petition were found to be vague and disjointed. Though the impugned order dated 11th/14th August, 2020 refers to the Employment Notice No.01/2018 pursuant to which the petitioner was stated to have been selected but the said notice, from which we could have understood the terms and conditions on which the petitioner was employed, also was not filed. The petitioner, as annexures to the petition, besides the impugned order dated 11th/14th August, 2020, has only filed a copy of the representation dated 4th September, 2020 claimed to have been made by him and from which representation also nothing more could be understood.

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34. The petition is entirely misconceived and it appears that intentionally confusing pleas and averments were made in the petition so as to, by creating confusion, have notice thereof issued and press for interim stay of the impugned order of discharge of the petitioner. However owing to the counsel for the respondents Railways, though appearing on advance notice but having obtained instructions, the need therefor has not arisen."

6. We also note that the said order had also rejected the claim of the petitioner on merits by observing as under:

"20. The counsel for the respondents informs that the petitioner took the first attempt in the subject paper of Law, on 3rd July, 2020 but obtained only 33 out of 100 marks. It is further informed that the petitioner availed of the second

attempt, on 29th July, 2020 but in which attempt he could secure only 12 out of 100 marks.

21. The counsel for the petitioner then states that the petitioner was never informed of the said marks and had never been informed that he had failed.

22. Neither do we find any provision in the Rules for any such intimation nor did the petitioner at any point of time raise any plea or objection in this regard. In fact the petitioner, vide the impugned order dated 11th / 14th August, 2020 of his discharge, has also been informed of his having failed to clear the written examination in the subject of Law, on conclusion of the training, even after the second attempt.

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24. As would be evident from the dates given by the counsel for the respondents, the petitioner availed of both attempts within the month of July, 2020 and thus the said argument also does not carry the case of the petitioner any further. Moreover it is not pleaded in the petition also that the stipend for the month of July, 2020 was paid. The counsel for the respondents also on enquiry states that since it was not so pleaded in the petition, he could not obtain instruction on this aspect.

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29. We tend to believe the same, in the absence of any appointment letter. Merely because the petitioner may have been asked to proceed to Gorakhpur, awaiting declaration of his result, would not vest any right in the petitioner, to be recruited, if the petitioner in accordance with Rules aforesaid is not eligible for recruitment."

7. We find that the present petition is merely an attempt of the petitioner to have 'second bite at the cherry'.

8. Even otherwise, if the grievance of the petitioner is that the information sought for by the petitioner under the RTI Act has not been supplied to the petitioner, the RTI Act itself gives an adequate alternate efficacious remedy against the said denial. The petitioner gives no reason for availing such remedy.

9. This Court, therefore, does not find any reason to exercise its extraordinary discretionary jurisdiction in the facts of the present petition.

10. In view of the above, the present petition is dismissed. There shall be no order as to costs.