
(2012) 08 DEL CK 0231

In the Delhi High Court

Case No : Writ Petition (C) 3342 of 1999

Roop Ram Kundu

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 16-08-2012

Acts Referred:

Citation : (2012) 08 DEL CK 0231

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

Bench : Division Bench

Advocate : Piyush Hans, for Mr. Arun Bhardwaj, for the Appellant; Anuj Aggarwal, with Mr. Bhupinder Singh, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—Heard Learned Counsel for the parties. While working as a Lance Naik (Radio Operator) with BSF, petitioner took a competitive examination conducted by the Staff Selection Commission for direct recruitment to the post of Sub Inspector in Delhi Police and Central Police Organizations in the year 1992.

2. Successfully clearing the test when result was declared in the year 1994 and finding himself fairly high up in the merits, petitioner was happy when he received a provisional letter informing him that upon his being declared medically fit he would be given appointment as a Sub Inspector in the BSF. This was as per a communication dated April 07, 1994.

3. Petitioner appeared for medical examination on May 03, 1994. He was declared temporarily medically unfit and this fact was communicated to him vide a letter dated June 03, 1994. Petitioner prayed that a review medical board be constituted. His prayer was accepted. At the review medical board examination held on May 19, 1995, the petitioner was once again declared temporarily medically unfit.

4. The petitioner challenged this decision vide W.P.(C) No. 149/1996. He did not

pursue the writ petition which was dismissed in default on July 10, 1996. The petition was never got revived.

5. Thus any challenge to petitioner's temporary medical unfitness as per the review medical board became a matter which no longer is capable of being adjudicated upon by any Court.

6. However, taking into account that the petitioner was being declared temporarily medically unfit, the authorities subjected the petitioner to another medical examination which was conducted in July 19, 1996. The petitioner had overcome the medical problem from which he was temporarily suffering. He was opined to be medically fit and accordingly an appointment letter dated September 17, 1996 was issued.

7. Now, the petitioner prays that he be accorded seniority as per his merit position obtained at the examination with all consequential benefits.

8. Suffice would it be to state that as per Rule 19 of the BSF (Subordinate Officers and Under Officers) Promotion and Seniority Rules 1975, seniority in any rank has to be determined on the basis of continuous regular appointment in that rank.

9. Being repeatedly declared temporarily medical unfit, till he was declared fit in September, 1996 resulting in appointment letter being issued on September 17, 1996, would require petitioner to be placed with respect to seniority, not with reference to the merit position which he had obtained when the examination was conducted in the year 1992 more so for the reason W.P.(C) No. 149/1996 filed by the petitioner stands dismissed in default and revival whereof has not been prayed for.

10. The writ petition is dismissed. No costs.