

(2020) 12 CAT CK 0078

In the Central Administrative Tribunal

Case No : Original Application No. 2143 Of 2020

SI (Exe.) Mahender Kumar Yadav

APPELLANT

Vs

GNCT Of Delhi & Others

RESPONDENT

Date of Decision : 23-12-2020

Acts Referred:

Citation : (2020) 12 CAT CK 0078

Hon'ble Judges : A. K. Bishnoi, Member (A); R.N. Singh, J

Bench : Division Bench

Advocate : Sourabh Ahuja, Esha Mazumdar

Final Decision : Disposed Of

Judgement

R.N. Singh, Member (A)

1. The applicant has filed the present OA to challenge the communication dated 14.09.2020 (Annexure-A/1), whereby the claim of the applicant

regarding refixing of his seniority in the rank of a Constable (Exe.) has not been finally decided and it has been communicated to the applicant that in

identical matter, an SLP is pending before the Honâ??ble Supreme Court and, therefore, it has been decided by the respondents to keep the

applicantâ??s representation pending till the decision of the Honâ??ble Supreme in the SLP.

2. The learned counsel for applicant submits that the issue involved in the present OA has already been decided by a Full Bench of this Tribunal vide

Order/Judgment dated 24.03.2011 in OA No.2047/2006 titled Abdul Nazeer Kunju Vs. UOI & Ors .(Annexure-A/3) and the said judgment of this

Tribunal was upheld by the Honâ??ble High Court of Delhi vide Order/Judgment dated 06.05.2013 in WP(C) No.2414/2012 (Annexure-A/4). He

further adds that though the judgment of this Tribunal and that of the Honâ??ble High Court of Delhi in Abdul Nazeer Kunju (supra) was

challenged by the respondents before the Honâ??ble Supreme Court in SLP No.11470/2014, however, the benefit of the judgment in Abdul Nazeer

Kunju (supra) has been extended by the respondents to all the applicants therein the said OA as well as in the batch of OAs, decided by a common

Order/Judgment in Abdul Nazeer Kunjuâ??s case. Shri Sourabh Ahuja, learned counsel for applicant further submits that thereafter various

persons have preferred representations before the respondents to extend the benefit of judgment of Abdul Nazeer Kunju (supra) and the respondents

have extended the said benefit, of course, provisionally and subject to the outcome of the SLP. In such facts and circumstances, the learned counsel

for the applicant argues that the applicant has been discriminated by the respondents, by passing the impugned order dated 14.09.2020.

3. Issue notice. Ms. Esha Mazumdar, learned counsel, who appears for the respondents on advance service, accepts notice. She submits that such

communication has been issued particularly, in view of the fact that the aforesaid SLP is likely to be listed before the Honâ??ble Supreme Court

shortly and, therefore, in place of looking into the claim of the applicant on merits, it has been decided by the respondents to keep his representations

pending till the disposal of the said SLP.

4. We have heard the learned counsel for the parties.

5. In the facts and circumstances, we are of the view that the respondents are required to re-visit their decision dated 14.09.2020.

6. In view of the aforesaid facts and circumstances, without going into the merits of the claim of the applicant and leaving all the legal pleas open to

both the parties, the present OA is disposed of, with a direction to the respondents to consider the applicantâ??s pending representation and if the

applicant is similarly placed as the applicants in Abdul Nazeer Kunju (supra), the respondents shall consider and dispose of the representation of the

applicant, as has been done in the case of Abdul Nazeer Kunju (supra), by passing a reasoned and speaking order, as expeditiously as possible, and in

any case within six weeks from the date of receipt of a copy of this order.

7. The OA is disposed of in the aforesaid terms. No costs.