

(2021) 02 CAT CK 0057

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 100 Of 2021, Original Application No. 83 Of 2020

SI (Exe.) Mahipal Singh

APPELLANT

Vs

GNCT Of Delhi & Others

RESPONDENT

Date of Decision : 10-02-2021

Acts Referred:

Citation : (2021) 02 CAT CK 0057

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 (J)

MA No.100/2021

1. Present MA has been filed seeking disposal of the present OA in terms of judgment dated 24.12.2020 passed by this Tribunal in OA No.2172/2020.

OA No.83/2020

2. In the present OA the applicant, who is working as Sub-Inspector (Exe.) has challenged the communication dated 10.12.2019 (Annexure-A/1) vide

which the claim for re-fixation of his seniority in the rank of Assistant Sub Inspector (Exe.) under the respondents have been rejected on the ground

that the issue involved is pending consideration before the Honâ??ble Apex Court in SLP No.11470/2014, 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.

3. 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 10.12.2019.

4. Ms. Esha Mazumdar, learned counsel, who appears for respondents with the assistance of the counter reply filed on behalf of the respondents has vehemently opposed the prayer of the applicant. 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.

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

6. In the facts and circumstances, we are of the view that the respondents are required to re-visit their decision dated 10.12.2019.

7. 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.

8. The OA is disposed of in the aforesaid terms. Accordingly, MA No.100/2021 also stands disposed of. No order as to costs.