
(2023) 04 DEL CK 0155

In the Delhi High Court

Case No : Civil Writ Petition No. 1436 Of 2020, Civil Miscellaneous Application
No. 4971 Of 2020

Sumit Anand

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 27-04-2023

Acts Referred:

Citation : (2023) 04 DEL CK 0155

Hon'ble Judges : Suresh Kumar Kait, J; Neena Bansal Krishna, J

Bench : Division Bench

Advocate : N.L. Bareja, Kamal Kant Jha

Final Decision : Disposed Of

Judgement

1. Vide the present petition, petitioner prays as under:

- a. To quash and set aside the impugned office order/letter dated 14.12.2019;
- b. To direct the respondents to accept the original application form dated 05.11.2019 of the petitioner;
- c. To direct the respondents to allow the petitioner to participate in the Recruitment Process for the post of ASI(Exe.) in CISF for LDCE-2019 and issue Admit Card to the petitioner to appear in the written examination which is going to be held on 16.02.2020.

2. Case of the petitioner is that petitioner was selected and appointed to the post of Constable/GD in the Central Industrial Security Force (CISF), Ministry of Home Affairs on 23.08.2010. After completion of basic training, he got his regular posting at Durgapur, West Bengal and since then, he has been performing his duties at various DMRC stations till he was transferred to CGBS Unit, New Delhi. On 30.08.2017, the petitioner was awarded minor punishment 'Censure' by the then Disciplinary Authority/Assistant Commandant/BETA Line, CISF Unit, DMRC, Delhi. Thereafter, the Appellate Authority and the Revisioning Authority also

upheld the aforesaid punishment vide order dated 09.11.2017 & 01.02.2018 respectively. Being aggrieved, on 27.08.2019, petitioner filed a writ petition being W.P.(C) 9520/2019 challenging the orders dated 30.08.2017, 09.11.2017 & 01.02.2018.

3. Learned counsel for the petitioner submits that respondent no.2 notified 1314 vacancies (UR-1019, SC-197 & ST-98) of Asstt. Sub Inspector (Executive) on 25.10.2019 in CISF through Limited Departmental Competitive Examination (LDCE) against the recruitment year 2019. Being eligible, petitioner filled up the same and on 14.12.2019, respondent no.3 informed the petitioner about rejection of his application form for the abovesaid post on the ground that "he is not eligible due to punishment imposed upon him". Thereafter, being aggrieved, petitioner filed an application in the abovesaid petition seeking directions to allow the petitioner to participate in the recruitment process for the post of ASI/Exe in CISF through LDCE-2019, however, the abovesaid petition as well as pending applications were dismissed vide order dated 29.01.2020. Hence, the present petition.

4. On the other hand, learned counsel appearing on behalf of the respondents submits that pursuant to order dated 04.02.2022 passed by this Court, petitioner appeared in LDCE-2019, however, he did not succeed. Thus, the prayer made in the present petition has become infructuous.

5. Learned counsel for the petitioner submits that punishment of 'Censure' which is in credit of the petitioner is of 2017. Thereafter, the petitioner got all five 'Very Good' ACRs and the benchmark to appear in the LDCE 2019 is 'Very Good' ACR. From 2017 till date, more than 5 years have passed and this issue came up before this Court in W.P.(C) 7563/2015 titled as Ct/GD "Girish Kumar vs. Union of India & Ors." and vide order dated 11.08.2015, the same was disposed of while observing as under:

"5. It is not in dispute that the petitioner was censured in 2008. Equally, it is not in dispute that his service records are thereafter not only clean, but he has been graded with 'Very Good' for the last four successive years thereafter till the recruitment process begun. In these circumstances, the CRPF's stand that the infliction of censure bars the candidate from entitlement for being considered for appointment in LDCE quota, but on the other hand does not affect his entitlement for normal promotion is not only irrational, but illogical. It is not the CRPF's case that the censure has any definitive consequence like in the case of a mere serious penalty-even a minor penalty such as stoppage of increments with or without cumulative effect. Even in such instances, the effect of the penalty exists only for the duration in post. The only way, in the opinion of the Court, the meaning to be given to condition of having "unblemished service record" pertains directly to what occurs thereafter i.e., till the issue of offer of appointment. In other words, if after selection, the candidate is found to have indulged in some misconduct or inflicted with the penalty, the question of his seeking appointment would not then arise because then it cannot be said that he/she has unblemished

record till appointment.

6. It is lastly urged by the CRPF that the amendment/addendum made on 11.10.2011 reiterates the same condition and having regard to these facts, the petitioner cannot claim entitlement to the appointment letter. In our opinion, the amendment/addendum relied upon does not further the case of the CRPF. It merely reiterates the condition, but, in no way alters its application.

7. In the present case, the censure order was imposed in March, 2008. Given that the petitioner has earned successive four 'Very Good' gradings, the rationale of the CRPF to withhold the appointment letter to the petitioner is unsustainable. Impugned letters are accordingly set aside. The CRPF is directed to conduct consequential action and issue the necessary appointment letters after verifying the records. The entire process shall be completed within eight weeks from today."

6. Accordingly, keeping in view of the above-mentioned judgment, we are of the considered opinion that life of 'Censure' is six months which has already passed. Therefore, respondents are directed to consider the case of the petitioner de hors the 'Censure' in his credit for the year 2017, if he is otherwise eligible for LDCE-2022 onwards, having five 'Very Good' ACRs in his credit.

7. In view of abovesaid discussion, petition is disposed of.