

Court No. - 21

Case :- SPECIAL APPEAL DEFECTIVE No. - 759 of 2023

Appellant :- Kuldeep

Respondent :- State Of U.P. And 5 Others

Counsel for Appellant :- Gaurav Bishan,Amit Singh,Harsh Kumar Anand

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Donadi Ramesh,J.

Re: Order on Delay Condonation Application

1. The appeal is reported to be beyond time by 752 days.
2. Heard learned counsel for the parties.
3. The explanation given in the affidavit accompanying the delay condonation application is found to be sufficient.
4. Accordingly, the delay condonation application is allowed.
5. Office is directed to allocate regular number to the appeal.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, J.)

Order Date :- 30.10.2023

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Re: Memo of Appeal

1. The instant intra-court appeal is directed against the order dated 27.8.2021 passed by learned Single Judge in Writ A No. 10654 of 2021, whereby the writ petition filed by the petitioner-appellant, has been dismissed.

2. The appellant had challenged the order dated 12.07.2021 passed by Senior Superintendent of Police, Meerut, whereby his selection on the post of Constable in U.P. Police was cancelled on the ground of misrepresentation. It is alleged that the appellant was appointed under 'Freedom Fighter' category on basis of claim made by him in his application form, although, he did not fell in the said category. When his reply was sought, he admitted in his reply that he claimed benefit of 'Freedom Fighter' category while filing online application but tried to explain it by taking the plea that it was on account of mistake of computer operator. The order also mentions that the petitioner otherwise would not have qualified the selection.

3. The Writ Court has returned a clear finding that the last selected candidate in OBC category has secured 310.6374 marks for appointment in Civil Police; 309.3608 marks for appointment as

Constable in P.A.C. and 308.5096 marks for appointment as Fireman. The petitioner had secured 265 marks, which was much below the cut-off marks of the last selected candidate in O.B.C. category. Moreover, the petitioner in his reply admitted that he did not belong to 'Freedom Fighter' category and therefore, admittedly he was not entitled to be recruited. Thus even assuming for argument's sake that there was no intention to make any false declaration or to misrepresent the fact, it remains undisputed that the petitioner had secured marks much below the cut-off marks in O.B.C. category and would not have been selected but for the claim made by him under the 'Freedom Fighter' category.

4. The learned Single Judge has also observed that in these circumstances, it was not necessary to follow the detailed procedure for holding enquiry as it was a case of cancellation of appointment based on admitted facts.

5. We find no illegality or infirmity in the impugned order of the learned Single Judge to warrant interference.

6. The appeal lacks merit and is, accordingly, dismissed.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, J.)

Order Date :- 30.10.2023

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