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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : July 11, 2016*

+ **W.P.(C) 5789/2016**

DEEPAK Petitioner

Represented by: Ms.Saahila Lamba, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.P.C.Yadav, Advocate with
Mr.B.K.Rout, Pairvi Officer and
Mr.S.S.Sejwal, Law Director (CRPF)

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

1. Learned counsel for the respondents who appears on advance copy of the writ petition being filed states that the facts pleaded in the writ petition are correct and that no counter affidavit is intended to be filed. Learned counsel states that the writ petition may be disposed of today itself.

2. Successfully completing the selection process for being appointed as a Constable in CRPF the petitioner was offered appointment as a Constable (GD) on December 13, 2014. While undergoing training, petitioner claims that under an impulse of depression occasioned by domestic responsibilities; illness of his old aged parents he submitted request for voluntary resignation on February 14, 2015 which was accepted by the competent authority on February 16, 2015 resulting in petitioner being discharged from service with

effect from February 16, 2015.

3. Reaching his native place the petitioner claims having realized that he ought not to have acted in an impulse and thus submitted an application on March 03, 2015 withdrawing the resignation and praying to be reinstated in service. The petitioner apologises for his impulsive action.

4. The request by the petitioner was rejected on March 16, 2015 on the plea that there is no provision permitting a force personnel to rejoin the force after having resigned from service.

5. Petitioner pointed out that as per Rule 26(4) of the CCS (Pension) Rules, 1972 the competent authority can permit a government servant to withdraw the resignation on the condition the government servant shows that the resignation was the result of some compelling reasons which did not involve any reflection on the integrity, efficiency or conduct of the government servant and the request to withdraw the resignation is the result of a material change in the circumstance.

6. The department persisted with the stand that there was no power to permit the petitioner to withdraw the resignation and this was conveyed to the petitioner on March 13, 2016.

7. Challenge in the writ petition is to the order dated March 16, 2015 and January 13, 2016.

8. Annexed as Annexure P-3 to the writ petition is an order dated September 10, 2014 allowing W.P.(C) No.7671/2013 Ravi Tomar Vs. UOI & Ors. The said order notes that two persons named Jagbir and Vivek Kumar had tendered voluntary resignation which was accepted. After few days the two submitted applications to withdraw the resignation and permit them to rejoin. The two were yet to be confirmed. The department

permitted the two to rejoin. Allowing the writ petition filed by Ravi Tomar on September 10, 2014 the Division Bench held that Ravi Tomar could not be discriminated against.

9. It is not in dispute that Ravi Tomar had yet to be confirmed . He was having the status of a temporary government servant. The Division Bench directed that he would be re-inducted in service with a direction that the department would permit him to rejoin his training.

10. Learned counsel for the respondent states that he has received instructions that the department has accepted the decision dated September 10, 2014. Ravi Tomar has been re-inducted in service. It is not in dispute that even Ravi Tomar was offered employment as a Constable (GD) in CRPF. He was undergoing training when he submitted his resignation. He had yet to be confirmed.

11. Since the department has accepted the decision pertaining to Ravi Tomar we see no reason why a stand is being taken against the petitioner that the CCS Pension Rules, 1972 would only apply to a permanent government servant.

12. It is not the case that the integrity, efficiency or conduct of the petitioner is not upto the mark.

13. Allowing the writ petition we grant petitioner same relief as was granted to Ravi Tomar.

14. Orders dated March 16, 2015 and January 13, 2016 are quashed.

15. The petitioner shall be reinstated in service and shall be permitted to rejoin training.

16. The petitioner would be entitled to his seniority but sans any salary for period he has remained out of employment.

17. Compliance shall be made within 6 weeks from today.
18. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

JULY 11, 2016
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