

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

+ **W.P.(C) No.10223/2016**

% **2nd March, 2017**

AMIT RAWAT Petitioner

Through: Mr. Adarsh K. Tiwari,
Advocate.

versus

NATIONAL SEEDS CORPORATION LIMITED AND ORS.

..... Respondents

Through: Mr. G. Joshi, Advocate with Mr.
Chirag Joshi, Advocate for
respondent No.1.
Mr. Arun Kumar, Advocate for
respondent Nos.2 and 3.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition under Article 226 of the Constitution of India, the petitioner seeks the following reliefs:-

- a) to issue a writ of mandamus or any other order directing the Respondent No.1 Corporation to grant pay protection to the Petitioner while granting the appointment to the post of Assistant (Vigilance) under Respondent No.1;
- b) to quash the impugned letter No.1(10)/14-HR/NSC/3008 dated 20.09.2016 issued by the HR Department of National Seeds Corporation Ltd. To the Petitioner [Annexure P-1]; and/or
- c) to pass any other appropriate order(s) or direction(s) in favour of the Petitioners which this Hon'ble Court may deem just and proper in the facts and circumstances of the case, in the interest of justice."

2. It is seen that the reliefs which the petitioner claims are that the petitioner on being appointed to the post of Assistant (Vigilance) under the respondent no.1, then his pay should be protected and granted by the respondent no.1 at the amounts which was being received by the petitioner from his existing employer where he is working i.e as a Sub-Inspector in CISF.

3. Respondent no.1 vide its letter dated 2.11.2016 has already withdrawn the offer of appointment given to the petitioner and this letter reads as under:-

“No.1(10)/14-HR-I/NSC

Dated:02nd November, 2016

Shri Amit Rawat,
S/o Shri S.S. Rawat,
Flat No.C/42, Geeta Colony Police Station,
Geeta Colony,
Delhi-110031.

Sub: Offer of appointment to the post of Assistant (Vigilance) in the scale of pay of Rs.9400-25700 (IDA)-UR Category in NSC Limited.

Sir,

Vide letter No.1(10)/14-HR-I/NSC/1377 dated 25th April, 2016, the offer of appointment to the post of Assistant (Vigilance) in the scale of pay of Rs.9400-25700 was issued to you with instructions to submit your consent in writing for accepting the offer of appointment and if the terms & conditions of offer of appointment are acceptable report for duty on or before 16.05.2016 failing which the offer shall be treated as cancelled without any further notice to you. In response to offer of appointment, you submitted the Demand Draft No.842136 dated 28th April, 2016 amounting to Rs.5,000/- as Security Money on 28.03.2016 but you did not join NSC as Assistant (Vigilance). You instead of joining NSC wanted some change in the terms & conditions of engagement, which was not accepted by Management of NSC which was informed to you vide letter dated 20th September, 2016 with instructions to join the post on or before 10th October, 2016 as per the terms & conditions of offer of appointment dated 25th April, 2016. You were specifically informed in the aforesaid letter that no further extension of request will be entertained and this will be last opportunity for joining the post.

Since, you have been given sufficient opportunity to join the post of Assistant (Vigilance) Gd-I till 10th October, 2016 but you failed to join the post, the offer of appointment dated 25.04.2016 issued to you is hereby withdrawn and cancelled in toto. The Demand Draft No.842136 dated 28th April, 2016 amounting to Rs.5,000/- is returned herewith. No further request will be entertained in this regard.

Thanking you,

Yours Truly,
For NSC Limited

(B.B.Saw)
Sr. General Manager (HR)

Encl: Demand Draft No.842136 dated 28th April, 2016 amounting to Rs.5,000/- in original.”

4. Entitlement of the petitioner to claim pay protection would only be if petitioner is employed or is going to be employed with the respondent no.1. Since the respondent no.1 has not employed the petitioner and in fact has withdrawn the offer of appointment vide letter dated 2.11.2016, the present writ petition as per its cause of action and reliefs cannot lie because petitioner as a pre-condition to the grant of reliefs as prayed in this writ petition would have to first successfully challenge/question the letter dated 2.11.2016 of the respondent no.1 withdrawing the offer of appointment to the petitioner, and of course provided the withdrawal of the offer of appointment is illegal and which illegality will have to be urged as a cause of action in a writ petition to question the letter dated 2.11.2016 of the respondent no.1 withdrawing the offer of appointment to the petitioner.

5. In view of the fact that offer of appointment to the petitioner for being employed by the respondent no.1 has been withdrawn by the letter dated 2.11.2016, no reliefs can be granted in this writ petition.

6. Dismissed.

7. Petitioner is at liberty, in accordance with law, to challenge the letter dated 2.11.2016, and with respect to which challenge this Court makes no observations one way or the other on merits of the cases of the respective parties.

MARCH 02, 2017
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VALMIKI J. MEHTA, J