

2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 6832/2017

Date of decision: 24th August, 2017

FAQUIR CHAND

..... Petitioner

Through: Mr.Rajeev Anand, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Manish Mohan, CGSC with

Ms.Manisha Saroha, Adv. for Mr.Vivek Kumar

Singh, Law Officer, CRPF, UOI

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAVIN CHAWLA

SANJIV KHANNA, J. (Oral)

The petitioner has approached this Court impugning notice dated 30th May, 2017.

2. Notice dated 30th May, 2017 is in the nature of a show cause notice as to why the petitioner should not be reverted to the rank of Inspector (GD). The petitioner was asked to submit reply within one month of the notice. Reply has been submitted by the petitioner but no final order has been passed till today.

3. The petitioner was promoted to the post of Assistant Commandant on 4th September, 2007, which is almost 10 years back.

4. In the show cause notice, it was stated that the petitioner's probation period was extended on four occasions as he was in lower medically category. In light of the administrative instructions, on unsatisfactory completion of probation, the petitioner would have to be reverted to the rank of Inspector.

5. Normally, Courts do not interfere at the Show Cause Notice stage for no final order or direction is issued and the matter is under consideration. In the present case for the aforesaid reasons, we would not like to interfere with the show cause notice issued to the petitioner as the matter is still to be finally examined and decided by the authorities.

6. However, the contention of the petitioner is that he would be immediately reverted to the post of Inspector, if and in case of an adverse order. That would be a normal and natural consequence when an adverse order is passed.

7. We had on the last date of hearing called upon the counsel for the respondents to obtain instructions whether a statement could be made that the respondents would give 15 days time to the petitioner before reverting him to the rank of Inspector if an adverse order is passed.

8. Counsel for the respondents states that they are not in a position to make a statement as this is not permissible vide the service rules and administrative instructions. However, Court order, if deemed appropriate, may be passed.

9. Keeping in view the aforesaid position, we are of the opinion that the respondents must decide the show cause notice as expeditiously as possible. In case adverse order against the petitioner is passed, he would be entitled to challenge the same in accordance with law. However, if an adverse order is passed, the same would not be given effect for a period of 7 days. We have passed the said order in view of the peculiar facts of the case as the petitioner was promoted as Assistant Commandant in 2007 and has remained on the said rank for 10 years.

10. We also clarify that while examining case and issuing the aforesaid direction, we have not commented and expressed any opinion on merits, as the authorities have to decide the show cause notice. In case, fresh writ petition is filed, the present order would not be treated as an order expressing any opinion.

11. With the aforesaid direction and observation, the writ petition is disposed of, without any order as to costs.

SANJIV KHANNA, J

NAVIN CHAWLA, J

AUGUST 24, 2017
RN