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

+ W.P.(C) 5612/2018

NOOR FATIMA

..... Petitioner

Through: Ms.Garima Sachdeva, Advocate
with the petitioner in person

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr.Ashim Sood, CGSC with
Mr.Rhythm Buaria, Advocate.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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23.05.2018

1. The petitioner is aggrieved by an order dated 17.08.2017, rejecting her candidature for the post of Sub-Inspector (Exe.) in the CISF, on account of her failure to report for training within the time specified in the offer of appointment, issued to her on 15.09.2016 as well within the time extended twice on her request.

2. The petitioner is a young Muslim girl from an orthodox family having a rural background. She hails from a village situated in District Jalaun, Uttar Pradesh. Aspiring to join the uniformed force, she worked hard and excelled in the competitive examination, securing third position in the All India Ranking in the CAPFs Examination 2015, for the post of Sub-Inspector (EXE.). The

petitioner received an offer of appointment dated 15.09.2016, for appointing her to the post of Sub-Inspector (Exe.) in the CISF through SSC CAPFs Examination-2015 and was nominated to the CISF by the SSC. The offer of appointment was with the direction “*to report to Director, National Industrial Security Academy (NISA), Hakimpet, Hyderabad-500078, Andhra Pradesh on 22.10.2016 between 0730 hrs. to 1700 hrs. repeat on 22.10.2016 between 0730 hrs. To 1700 hrs. and in case you fail to report on the stipulated date, it will be presumed that you are not interested to accept this offer and the offer of appointment will automatically stand cancelled*”.

3. Despite her dream to join the Force having been realized on her passing the CAPFs Examination-2015 with flying colours, there was a twist in the tale. As luck would have it, the petitioner’s ankle got twisted on 10.10.2016 i.e. just 10 days before she was required to report for training. She was advised not only medication, but also bed rest for three weeks by the doctor at Aruna Asaf Ali Government Hospital, Delhi.

4. Vide letter dated 13.10.2016, the petitioner informed the Director, NISC, Hyderabad about the sprain in her ankle and her medical condition and requested for extension of time to report for training. The authorities sympathetically considered her request and vide letters dated 12.11.2016 and 09.12.2016 granted extension of time twice. In the meantime, the petitioner also developed lower back pain and on 21.11.2016, apart from undergoing physiotherapy, she was advised further bed rest. The petitioner continued writing to the respondent for seeking extension of time for joining the training. By

the last extension that was granted to her by the respondents, vide letter dated 09.12.2016, she was directed to report on or before 19.12.2016. Again, her medical condition did not permit her to report within this extended period.

5. The petitioner continued making representations to the respondent seeking extension of time but the subsequent representations were not responded to. Finally, she was informed by the Commandant/TRG, CISG, NISA, Hyderabad through a communication dated 17.08.2017, that the offer of appointment issued to her had lapsed in view of the OM No.35015/2/93-Estt(D) dated 09.08.1995 issued by the DoPT. Thereafter, the petitioner also filed a mercy petition before the Inspector General, NISA seeking extension of time to report for the training.

6. On 06.09.2017, when the petitioner was declared fit to resume duties by the doctor at Aruna Asaf Ali Government Hospital, she applied online on 07.09.2017, to the Director General, CISF for permission to report for training. After over six months, the office of the DG, CISF informed the petitioner on 28.03.2018, that her request could not be acceded to in the light of the DoPT Guidelines issued vide OM dated 09.08.1995. It is this decision that has been assailed by the petitioner in the instant writ petition.

7. Ms.Garima Sachdeva, learned counsel for the petitioner, assisted by the petitioner, submits that her client is a victim of unfortunate circumstances completely beyond her control. Despite showing her extraordinary caliber by securing third rank in the CAPFs Examination-2015 for the post of Sub-Inspector (Exe.), she could not

avail of a golden opportunity to join the uniformed force for twin reasons; firstly, the sprain of her ankle that she suffered just 10 days before she was to join the training, and secondly, the stiff resistance faced by her from her family members who insisted that she get married, thereby depriving her of an opportunity to join the force. The petitioner did not get any support from her family to enable her to communicate with the authorities for extension of time.

8. Learned counsel for the petitioner explains that the petitioner did not take any action till April, 2017, under the bonafide belief that the period of six months reckoned from 22.10.2016, the date when she was to report at the Academy for training, would lapse only in the month of April, 2017. She was also hopeful that her subsequent representations would be considered favourably by the respondents, as they had done so earlier. She states that the petitioner had to face a lot of resistance from her family members for joining the service and after much difficulty, was she able to persuade them for permission to travel to Delhi to institute the present petition. She states that by now, the petitioner has become over age and will not be eligible to participate in the subsequent recruitment processes.

9. We find that submissions made by the petitioner are borne out from the record. Though she was in acute pain throughout this period, she continued sending hand written letters supported with medical certificates issued by a Government Hospital, apprising the authorities about her medical condition from time to time. Her earlier requests dated 13.10.2016 and 21.11.2016 were considered sympathetically by the respondents and she was granted extension of time, firstly till

26.11.2016 and then till 19.12.2016 by the respondents vide communications dated 12.11.2016 and 09.12.2016 respectively to join the training. However, her subsequent requests dated 05.12.2016 and 19.12.2016 for extension of time were not responded to. The petitioner remained under a bonafide impression that this time too, her request for extension of time till she is declared medically fit and is able to report for training, would be acceded to by the respondents. In the above circumstances, the communication dated 17.08.2017, from the Commandant/TRG, CISF, NISA, Hyderabad, withdrawing the offer of appointment came to the petitioner like a bolt from the blue.

10. Having regard to the submissions made by learned counsel for the petitioner, equity demands that this Court takes into consideration the unusual circumstances of the present case, where the petitioner, who belongs to a remote village in U.P. and comes from a conservative family, decided to give wings to her dreams of becoming a force personnel but ended up facing insurmountable difficulties both, on the personal front and health front. The petitioner did very well in the CAPF's Examination 2015 and was placed at the third position in the All India Ranking but due to circumstances entirely beyond her control, she suffered an injury that kept her confined to bed for a prolonged period of six months. Now that she has been declared to be physically fit to report for her training, in terms of the medical fitness certificate issued by the Department of Orthopaedics, Aruna Asaf Ali Government Hospital, Delhi, the respondents have withdrawn the offer of appointment issued to her.

11. Given the above position, we are of the opinion that it is a fit

case for intervention as irreparable loss and injury shall be caused to the petitioner, who will miss a lifetime opportunity to become a part of a disciplined Force. That apart, if the petitioner is inducted in the Force, then she will be a shining example for the rest of her community and will encourage other similarly placed women to participate in the CAPF's Examination, thereby opening new professional avenues for them. Accordingly, in exercise of the extraordinary powers vested in this Court, the present petition is allowed. One last opportunity is afforded to the petitioner to join the training in the next batch, on a communication in that regard being issued to her by the respondents. The respondents are directed to permit the petitioner to join her basic training at the National Industrial Security Academy, Hyderabad. They shall issue a letter to the petitioner extending the reporting time further, to enable her to join the training, with the next batch.

12. Immediately on the respondents informing the petitioner of the date and time for reporting to the National Industrial Security Academy, Hyderabad, she shall make necessary compliance and report for training. We make it clear that no further extension of time shall be granted to the petitioner. The respondents shall satisfy themselves about the petitioner's medical fitness etc. at the time of her reporting. The petitioner states that she shall not claim seniority with the batch in which she had qualified, that had reported for training at Hyderabad in the year 2016. She also agrees to abide by the decision of the respondent on this aspect as per the extant Rules.

13. The present petition is disposed of. It is however made clear

that since the aforesaid order has been passed in the peculiar facts and circumstances of the case, it shall not be treated as a precedent in any other matter.

HIMA KOHLI, J.

PRATIBHA RANI, J.

MAY 23, 2018

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