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

+ **W.P.(C) 11746/2016**

SACHIN KUMAR

..... Petitioner

Through: Mr. Ankur Chhibber, Advocate with
Mr. Bhanu Gupta, Advocate.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Saroj Bidawat, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **04.12.2018**

1. The challenge of the Petitioner is to the orders of the Respondents declining his request for absorption in the Office of the Chief Comptroller of Accounts (CCA) (his borrowing department), in the Ministry of Home Affairs (MHA).

2. The Petitioner joined the Sahastra Seema Bal (SSB) (his parent department) as Constable (GD) on 8th August, 2000.

3. On 9th February, 2010, he was sent on deputation to the CCA, MHA. By an order dated 17th June, 2010, his period of deputation was fixed at three years. While the Petitioner was on deputation with the MHA, two other persons who had come similarly on deputation got absorbed in the MHA.

4. The Petitioner does not dispute that the relevant recruitment rules (RR's) do not set down any standard on the basis of which persons coming on deputation to the office of the CCA (MHA) get absorbed.

5. By an office order dated 25th February, 2013, the tenure of the Petitioner as well as three other deputationists was extended for one more year. In the meanwhile, one more person (Respondent No. 6) who had come on deputation was absorbed in the MHA on 4th January 2013. The Petitioner made an application on 18th April, 2003 expressing his willingness for absorption which came to be rejected by the impugned order dated 23rd May, 2013 issued by the CCA.

6. His further application for absorption also did not meet any positive response.

7. After the Central Administrative Tribunal (CAT) declined to entertain the Petitioner's application by an order dated 19th October 2016, on the ground of lack of jurisdiction, he filed Writ Petition No. 10583/2016 in this Court and notice was issued to the Respondent on 8th November 2016. During the pendency of that petition, he was relieved from his borrowing department i.e. MHA by an order dated 26th October, 2016. His application for an interim relief that he should be permitted to be retained in the MHA was declined by this Court. On 21st November 2016, the Petitioner was informed that his parent department (SSB) had posted him to Chattisgarh. Thereafter, the present writ petition was filed by the Petitioner.

8. Even in this petition, there has been no interim order in favour of the Petitioner. He has been working in his parent department since the date of his repatriation.

9. This Court has heard the submission of the learned counsels for the parties.

10. The main plank of the challenge by the Petitioner is that of discrimination *vis-a-vis* the others who came on deputation from the SSB but were absorbed by the department (CCA) of the MHA. According to Petitioner, there was no justification for discriminating against him and in declining his request for absorption.

11. As already noted herein before, the relevant RRs only mention that one of the modes of appointment in the post of LDC in the CCA, MHA is by way of absorption of a person coming on deputation. The relevant portion reads as under:

“Deputation:

Vacancies remaining unfilled by direct recruits through Staff Selection Commission may be filled through deputation by taking persons of appropriate grade from other Organised Accounts Services, Central Government, State-Government or Autonomous Bodies which are fully funded by the Central Government or State Government Departments.”

12. Consequently, it appears that the RR’s do not actually talk of absorption of staff on deputation as one of the modes of filling up vacancies unfilled by direct recruits.

13. If there was any particular standard which was required to be observed by the Respondents while operating the RR's, it would be possible for the Court to determine if the Petitioner was being discriminated against by not being absorbed while certain others who came on deputation were absorbed. It is not possible in the facts and circumstances of this case for the Court to make any such legal determination.

14. In any event, with the Petitioner having been reassigned to the parent department on 26th October, 2016 i.e. more than two years ago and there being no interim order in his favour, the relief sought for in this petition is incapable of being granted at this point in time.

15. For the above reasons, the writ petition is dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 04, 2018

ss