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

+ **W.P.(C) 13344/2018**

YOGESH KUMAR

..... Petitioner

Through: Mr. Gaurav Sharma, Mr. Abhishek
and Mr. N.L. Bareja, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC for UOI.
Mr. Vivek Kumar Singh, Advocate
for R-2, R-3 & R-4.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **11.12.2018**

1. This is virtually the third round of litigation. The Petitioner qualified in the written examination forming part of the Limited Departmental Competitive Examination (LDCE) held on 25th August 2013 for appointment for the post of Sub Inspector (SI) (General Duty) (GD) for appointment in one of the 191 vacancies released for general candidates. When his candidature was rejected by the recruitment board, he filed W.P.(C) 1297/2014 which came up for hearing before this Court along with five other writ petitions all of which were allowed by a common judgment dated 19th August 2015.

2. To implement that order which required the Respondents to give them appointment letters within two months of the order being passed, Cont. Case (C) 875/2015 was filed where a statement was made on 27th January 2016 by the Respondents that they were in the process of complying with the order dated 19th August 2015 and six weeks time was sought for the same.

3. On 5th February 2016, even before making him an offer of appointment on 19th April 2016, the Respondents informed the Petitioner in writing that his case had again been examined and it was found that he had obtained equal marks in the written examination as obtained by the last selected candidate in his category, but since the Petitioner was 'less in age' than the last selected candidate, he could not be placed on the merit list in terms of directions issued by the DIG (Recruitment) dated 1st February 2016. On 17th March 2016, the Petitioner was issued an offer of appointment to post of SI/GD and directed to report to 222nd Battalion, CRPF post the hearing of the Cont. Case (C)No.875/2015 on 15th March 2016 where the Respondents were directed to issue the letter of appointment to the Petitioner immediately in terms of the judgement and order dated 19th August 2015. The Petitioner immediately accepted the same and withdrew the contempt petition filed by him with liberty to approach the Court if needed in the future. However this was a conditional offer since the Respondents communicated that the appointment of the Petitioner would be subject to the decision of the Supreme Court in the special leave petition being filed by them.

4. When SLP Civil (C) No. CC 22313-14/2016 filed by the Respondents came up for hearing in Supreme Court on 2nd December 2016, the

Respondents were permitted to withdraw the SLP to file review petition before this Court on the ground that the present Petitioner “was very low down in the merit”.

5. Pursuant to the leave granted, Review Petition No. 8/2017 was again filed by the Respondents which came to be allowed by the Division Bench by its order dated 27th March 2017. The Court noted that although he had obtained the requisite marks in the LDCE, “despite this, he could not make the grade on account of the time that existed between him and other similarly placed candidates.” It was noted that the candidate at Sl. No. 189 who obtained 140 marks was the oldest amongst all others with the same marks who were at Sl. Nos. 190 to 195. Being the oldest, the candidate at Sl. No. 189 was offered the post. This was consistent with the applicable rule.

6. Against the above order dated 27th March 2017, the present Petitioner filed SLP (Civil) 14463/2017 which came to be dismissed on 8th May 2017 on the very same day that the offer made to the Petitioner by the letter dated 19th April 2016 and 7th May 2016 was cancelled.

7. The present round of litigation is on account of the Petitioner making yet another representation on 20th September 2017 for considering him for the post of SI/GD pursuant to the vacancies published for LDCE-2016.

8. The Court finds no justification for the Petitioner to keep agitating the same issue over and over again by instigating fresh rounds of litigation. The mandamus that the Petitioner seeks to the Respondents to dispose of his

representation cannot be granted by the Court in the above circumstances.

9. The petition is accordingly dismissed.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 11, 2018

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