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

+ W.P.(C) 6747/2018

VIJAY DAS

..... Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

DIRECTOR GENERAL CENTRAL INDUSTRIAL
SECURITY FORCE & ORS

..... Respondents

Through: Mr. Vijay Joshi, Senior Panel Counsel
along with Mr. Sanjay Kumar,
Inspector, for the respondents.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

24.07.2019

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1. The petitioner has preferred the present writ petition to assail the letters dated 24.01.2018 and 02.02.2018 issued by the respondents, whereby his representation for grant of annual increment for the year 2011 and fixation of his pay at par with his juniors has been turned down. He also seeks a direction to the respondents to, accordingly, fix his pay at par with his juniors and to pay him the entire arrears for the post of S.I./ Executive.

2. The petitioner was serving as Constable/ GD in the CISF since 2009. In December, 2010, he applied for the post of SI/ Executive through the Staff Selection Commission and was selected to the said post along with other candidates. Though his batch-mates were issued appointment letters and were able to join the said post on 08.12.2010, he was issued the

appointment letter only on 30.12.2010 requiring him to join on or before 06.01.2011. It appears that the NOC regarding his previous employment was issued to, and submitted by the petitioner well in time. Yet, the appointment letter was issued belatedly, for reasons attributable to the respondents, and for no fault of the petitioner. On the premise that the juniors of the petitioner from the same batch joined on 08.12.2010, whereas the petitioner had joined only on 06.01.2011, he was denied one increment since, under the Rules, the uniform date of increment is 01st July of the year and as on 01.07.2011, the petitioner had not completed six months service, whereas his juniors had. In this background, the petitioner made his representation, which was turned down, and the reason given by the respondents in the impugned communication read as follows:

“ ”

“The request SI/Exe Vijay Das of your unit has been examined and it is submitted that as per the provision of Rule 10(3) of CCS (RP) Rules 2008, in the case of all central govt. employees, there is a uniform date of increment i.e. 1st of July of every year. Govt. servants completing six months and above in July in the revised pay structure as on 1st of July are eligible to be granted the increment. From the above provision of CCS (RP) rules, it flows that Govt. servants who have rendered less than 6 months of service as on 1st July of a year will not be eligible to draw increment on that day and their date of increment will fall 12 months later on next 1st July. Accordingly, those Govt. employees who join the post on promotion/ appointment between 2nd January and 30th June will not be eligible for the same.”

03. Hence, as per above provision increment for the year 2011 can not be granted to you due to no completing of six months service in the rank of SI/Exe as on 1.7.2011.”

3. The submission of the petitioner is that he was in no way responsible for his delayed joining. His appointment letter, admittedly, was issued only on 20.12.2010 requiring him to join on or before 06.01.2011. He had joined on the post of S.I./ Executive on 06.01.2011 and his training had also taken place with the juniors in his batch. Thus, merely because he could not join earlier along with other batch-mates in December 2010 is no reason to deny him the increment in pay and equal pay as that paid to the juniors in the batch.

4. On the other hand, learned counsel for the respondents places reliance on Rule 10(3) of the CCS (RP) Rules, 2008, which fixes the uniform date for grant of increment, which is 1st July of every year and which also states that the Government servant who had completed six months and above service as on 1st July would be eligible for grant of increment.

5. Having heard learned counsel, we are inclined to allow the petition, as claimed. The petitioner cannot be made to suffer only on account of the default of the respondents in belatedly issuing appointment letter to him. There is no reason attributable by the respondents for which the petitioner could be held responsible for delayed issuance of his appointment letter. There is no reason why the appointment letter could not have been issued with his batch-mates, who were junior to him. For the said delay, it is the respondents, who alone are responsible. So far as the petitioner is concerned, he has acted on the appointment letter issued to him on 20.12.2010 and joined the post on 06.01.2011. Pertinently, the appointment letter dated 20.12.2010 did not inform him that if he does not join on or before 31.12.2010, he would lose one increment under the rules.

6. In these circumstances, we allow this petition and direct the respondents to fix the pay of the petitioner at par with his juniors and the batch-mates. He will also be entitled to arrears of pay and emoluments along with interest @ 8% per annum. The same shall be paid to him within the next six weeks.

7. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 24, 2019

B.S. Rohella