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IN THE HIGH COURT OF DELHI AT NEW DELHI

NEUTRAL CITATION NO: 2022/DHC/000574

Date of Decision: 14.02.2022

W.P.(C) 2759/2022

PRAVEEN KUMAR

..... Petitioner

Through Mr Sachin Chauhan, Adv.
versus

DELHI METRO RAIL CORPORATION LTD. & ORS.

..... Respondents

Through Mr V.S.R. Krishna, Adv.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE TALWANT SINGH

[Court hearing convened via video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J. (ORAL):-

CM APPL.7922/2022

1. Allowed, subject to just exceptions.

W.P.(C) 2759/2022 & CM APPL.7934/2022 [Application filed on behalf of
the petitioner seeking interim relief]

2. Issue notice.

2.1. Mr V.S.R. Krishna accepts notice on behalf of the respondents, in effect, Delhi Metro Rail Corporation Ltd. (DMRC).

3. With the consent of the counsel for the parties, the writ petition is taken up for final hearing and disposal, at this stage itself.

4. This writ petition is directed against the order dated 07.02.2022, passed by the Central Administrative Tribunal [in short “the Tribunal”] in O.A. No.286/2022.

4.1. The relief that the petitioner had sought before the Tribunal has been extracted in the impugned order. For the sake of convenience, the same is extracted hereafter:

“8.1. to direct the respondents to allow the applicant to participate in selection for grant of next higher grade of DGM in grade of Rs. 70,000/- -RS. 2,00,000/- (IDA) (1 DPC-2022) initiated vide office order No. PT/2943/2022 dated 24.1.22 and





if applicant scored qualifying marks in written exam. (schedule on 17.2.2022) then applicant be empanelled, in order of seniority for consideration for grant of next higher grade of DGM in grade of Rs. 70,000/- - Rs. 2,00,000/- (IDA) (1st DPC-2022) and further be subjected to interview and if found fit then to grant next higher grade of DGM with all consequential benefit including seniority & promotion and pay & allowance.”

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4.2. The grievance of the petitioner, in short, is that, since his Annual Performance Assessment Reports [in short “APARs”] for 2017-18 and 2018-19 have been downgraded, he is short of four (04) points from reaching the minimum qualifying APAR points, and, therefore, was not able to take part in the selection process conducted by the DMRC for the next higher level post i.e., Deputy General Manager [in short “DGM”].

5. It is not in dispute that the petitioner requires minimum thirty six (36) APAR points albeit spread over four years, to attain eligibility to sit for the examination for the post of DGM.

5.1. It is also not in dispute, as noticed above, that between 2017-18 and 2020-21, the petitioner has accumulated 32 APAR points. The details with respect to the APAR points and grades awarded to the petitioner over this period have been set forth in a table in paragraph 6 of the impugned order. For the sake of convenience, the same is extracted hereafter:

S.No.	Year	Grading	Equivalent to points
1.	2017-18	Good	6
2.	2018-19	Good	6
3.	2019-20	Outstanding	10
4.	2020-21	Outstanding	10
	Total		32

5.2. A perusal of the table would show that while in 2019-20 and 2020-21, the petitioner has been graded “Outstanding”, his grading was brought down to “Good” in 2017-18 and 2018-19.



6. The record shows [something which is also not contested] that, be
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institution of the aforementioned O.A., the petitioner had approached the Tribunal by way of O.A. No. 2495/2021 & O.A. No. 2540/2021.

6.1. We may note that, while O.A. No.2495/2021 concerned the issues revolving around 2017-18 APAR, O.A. No.2540/2021 was concerned with the petitioner's APAR for 2018-19.

6.2. Both OAs were, however, disposed of by two separate orders of even date i.e., 15.11.2021.

6.3. In sum, the Tribunal, *via* the aforesaid orders, directed the petitioner to place a comprehensive representation before the DMRC for upgradation of his APARs, with an added direction to DMRC to dispose of the same via a speaking order.

7. Mr Sachin Chauhan, who appears on behalf of the petitioner, says that although representations have been made to the DMRC, pursuant to the directions of the Tribunal, the same have not been disposed of as yet.

7.1. We are informed that the examination for the DGM level is scheduled to be held on 17.02.2022.

7.2. We are also told that there is only one post available at the DGM level, for which the feeder post is Manager (Operation).

7.3. Concededly, the petitioner is currently holding the post of Manager (Operations) in DMRC.

8. Mr Krishna says that he has been instructed to convey to the court that the petitioner's representation concerning the APAR for 2017-18, has been rejected and that there is no alternation in the grading.

8.1. Insofar as the petitioner's representation concerning APAR for 2018-19 is concerned, Mr Krishna says that endeavour will be made to dispose of the same within the next two days.

9. Given the submission advanced by Mr Krishna, the writ petition is disposed of with the following directions:

(i) The order passed *vis-à-vis* the petitioner's representation concerning his APAR for 2017-18, will be communicated to the petitioner and/or his counsel-on-record, in the course of the day.

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(ii) Every endeavour will be made to dispose of the petitioner's representation made qua 2018-19 APAR, on or before 16.02.2022.

(iii) In case the petitioner's representation concerning 2018-19 APAR is not disposed of, for whatever reason, by 16.02.2022, the petitioner will be allowed to sit, *albeit* provisionally, for the DGM examination, which is scheduled to be held on 17.02.2022.

(iv) The petitioner's result qua the said examination will await the disposal of the representation by the DMRC.

(v) It is made clear that the fact that the petitioner has been allowed to sit, albeit provisionally in the DGM examination [in terms of the directions contained in sub-para (ii) and (iii) above], will not entitle him to claim any equities.

(vi) Needless to add, the order passed *visa-vis* the petitioner's representation concerning his APAR for 2018-19, will be communicated to the petitioner and/or his counsel-on-record, with promptitude.

9.1. Consequently, pending application shall stand closed.

10. Parties will act based on the digitally signed copy of this order.

RAJIV SHAKDHER, J

TALWANT SINGH, J

FEBRUARY 14, 2022/pmc

Click here to check corrigendum, if any