



\$~7

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

% Judgment delivered on: 10th November, 2023

+ W.P.(C) 11265/2019

DR. HEMANT KUMAR SHINDE Petitioner

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Petitioner: Ms. Shruti Munjal, Mr. Ravi Prakash Singh, Ms. Ritika Kaushik, Advocates

For the Respondents: Mr. Akshay Amritanshu, Mr. Ashutosh Jain and Mr. Samyak Jain, Advocates

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugned order dated 19.07.2019 whereby the representation of the petitioner impugning the Annual Confidential Reports for the year 1999-2000, 2000-2001, 2001-2002, 2002-2003 and 2003-2004 have been rejected on the ground that said representation is a third representation against subject ACRs and earlier two representations having been rejected, third representation is not maintainable.



2. Petitioner had earlier impugned memorandum dated 02.06.2009 whereby petitioner was communicated his below bench mark grading. Said representation was rejected leading to petitioner approaching the Central Administrative Tribunal, Patna Bench. Pending consideration of the said original application before the Central Administrative Tribunal, the post of petitioner was combatised, accordingly, the original application was returned to the petitioner to be filed before the jurisdictional High Court.

3. Petitioner approached the Allahabad High Court in Writ A. No. 69706/2013. Since petitioner was posted out from the Unit where he was then posted, Allahabad High Court returned the petition with liberty to petitioner to approach a competent court of law.

4. Thereafter, petitioner filed a writ petition before this Court being W.P. (C) 12080/2016 which was disposed of on 25.02.2019 noticing that petitioner had never been communicated the entire ACRs and had only been given the grades of the respective years.

5. A Co-ordinate Bench of this Court by order dated 25.02.2019 in W.P. (C) 120802/2016, relying on the decision of Supreme Court in *Dev Dutt Vs. Union of India* (2008) 8 SCC 725, directed the respondents to make available to the petitioner complete Annual Confidential Reports of the subject years and permitted the petitioner to file a comprehensive representation against the gradings. The Bench further directed the respondents to decide the representation of petitioner by a reasoned decision within a period of eight weeks.



6. Pursuant to the directions, respondents supplied to the petitioner complete ACRs of the subject years. In terms of the liberty granted to petitioner, petitioner filed the subject representation dated 05.04.2019. Said representation has been dismissed by the impugned order dated 09.07.2019 holding the same to be a third representation and declining the same solely on the ground that two earlier representations have already been rejected.

7. We are unable to accept the contentions of the respondents that the subject representation dated 05.04.2019 is a third representation. In fact said representation is the first representation after receipt of the complete copies of the subject Annual Confidential Reports which were received pursuant to direction issued by this Court on 25.02.2019 in WP (C) 12080/2016.

8. Since the subject representation was the first representation, it was not open to the respondents to reject the same treating it as a third representation and rejecting it solely on the ground that two earlier representations stood rejected. In any event, respondents were bound to comply with the order of this Court dated 25.02.2019 wherein the liberty was granted to petitioner to file a detailed representation and a mandate was issued to the respondents to pass a reasoned order thereto which was to be communicated to the petitioner.

9. In view of the above, the impugned order dated 09.07.2019 is not sustainable and is accordingly quashed.



10. Respondents are granted one more opportunity to comply with order dated 25.02.2019 and to decide the representation of petitioner dated 05.04.2019 by way of a reasoned decision. The reasoned decision be communicated to the petitioner within six weeks from today. It is clarified that in case petitioner is aggrieved by the reasoned decision, it would be open to him to seek appropriate remedy in accordance with law.

11. Petition is disposed of in the above terms.

12. Order *dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

MANOJ JAIN, J

NOVEMBER 10, 2023

dr

न्यायमेव जयते