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

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Date of decision: 28.03.2023

+ W.P.(C) 6843/2022 & CM APPL. 20836/2022

MR SANJEEV TIWARI

..... Petitioner

Through: Mr.Neeraj Kumar Sharma, Adv.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Aditya Dewan, Advocate.
SI Amit Kumar, CISF.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 15232/2023

1. Vide the present application, petitioner prays as under:

- a) *To direct the respondents to allow the applicant/ petitioner to sit and participate in the exam which will be held on 29.03.2023 for Assistant Sub Inspector through LDCE 2021;*
- b) *To direct the respondents to issue admit card before 29.03.2023.*

2. Case of the petitioner is that he was selected as Constable, GD in CISF on 16.06.2007 and in the year 2009, petitioner was punished in departmental proceedings for over stay of 10 days without sanctioned leave. Thereafter, respondent no.3 invited the applications for the post of

ASI(EXE) through LDCE for the year 2021 on 27.12.2021 and petitioner filed up his application to participate in LDCE 2021 and went to the office of the respondents to submit his application on 02.02.2022 well before the last date i.e. 05.02.2022, however, respondents did not allow the same. Therefore, he made representation dated 18.02.2022 to respondent no.2 through proper channel to allow the petitioner to participate in the LDCE 2021, however, vide impugned order dated 26.02.2022, respondents rejected the abovementioned representation of the petitioner.

3. Learned counsel appearing on behalf of the respondents submits that vide impugned order dated 26.02.2022, respondents have given finding which is as under:

“03. In this regard, this is to inform that under the letter No. E-32017/ASI/Work (LDCE)-2021/Recruitment/3815 dated 27.12.2021 from CISF Headquarters New Delhi, an advertisement was issued through LDCE-2021 for the post of ASI/Exe, wherein as per Sub-Clause d)-Clean Record of Clause No.06, only those Force Members are eligible for the said recruitment who fulfills the following condition –

“The candidates must have good ACRs for last 05 years and should have unblemished service record till joining the post of ASI/Exe (LDCE) on appointment”.”

4. He further submits that petitioner was punished in the year 2009, the same has not been challenged and attained finality. Moreover, even the petitioner did not submit his application before the last date i.e. 05.02.2022 which is evident from the representation dated 18.02.2022 and, thus, he cannot be allowed to participate in the LDCE 2021.

5. Learned counsel for the petitioner has relied upon the case of **Sumit Anand vs. Union of India & Ors.** passed in CM APPL. 6239/2022 in

W.P.(C) 1436/2020 on 04.02.2022 wherein the petitioner had challenged the punishment order and thereafter the effect of the punishment has been challenged. Accordingly, this Court directed the respondents to allow the petitioner to sit in LDCE 2021.

6. In the present case, petitioner has not challenged the punishment of the year 2009 and only seeking permission to participate in the LDCE 2021.

7. In view of the above facts and circumstances of the case and the submission of counsel for the respondents on the fact that clean record of the candidate is required as per the said advertisement which is not in the case of the petitioner herein, therefore, we do not find any ground to allow the petitioner to sit in the LDCE 2021.

8. Application is, accordingly, dismissed.

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9. In view of the order passed in CM APPL. 15232/2023, noting survives in the present petition.

10. Petition as well as pending application stand disposed of.

11. The date already fixed i.e. 04.05.2023 stands cancelled.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 28, 2023/ab

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