



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

% Date of decision: October 06, 2023

+ W.P.(C) 5810/2023

4 **RAJENDER SINGH** Petitioner

Through: Mr. Naginder Benipal and
Mr. Ankit Siwach, Advs.

versus

COMMISSIONER OF POLICE Respondent

Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam
& Mr. Mohnish Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:-

“1. To issue a writ of certiorari or any other appropriate Writ /order/direction (s) thereby quashing the rejection letter dated 12.02.2019 and also Setting aside of the impugned order dated 23.12.2022 so passed by the Hon'ble Tribunal in O.A. No. 1047/2019.

2. To issue a writ of mandamus or any other appropriate writ/order/ direction(s) thereby directing the respondent to re-instate/ rejoin the petitioner with all consequential benefits with 12% of interest.

3. To pass any other order or further order which may be deemed fit and proper in the interest of justice.”



2. In effect, the petitioner has challenged the order of the Tribunal dated December 23, 2022, whereby the Tribunal has rejected the O.A. filed by the petitioner by stating in paragraph 13 as under:-

“13. In light of the above observation, it can be said that the matter of appointment for Category of ex-serviceman is a concession and cannot be claimed as a matter of right contrary to Rules/Policy. It is also equally true that the option for re-employment in the category of Ex-servicemen, even if, available cannot be exercised by the applicant twice.”

3. The challenge of the petitioner before the Tribunal was to an order dated February 12, 2019, whereby the respondent has rejected the application filed by the petitioner regarding his rejoining in Delhi Police on the ground that at the time of his resignation, the petitioner was not confirmed employee.

4. The facts as noted from the petition are that, on March 03, 2017, the petitioner retired from the Indian Army on completion of his tenure after serving more than 16.5 years. On March, 2017, the petitioner applied for the post of Constable in Rajasthan Police as well as Delhi Police. It happens that on May 02, 2018, the petitioner was appointed as Constable in Delhi Police and was undergoing training.

5. In the meantime, on August 29, 2018, the petitioner passed the written test and called by Rajasthan Police to bring NOC from Delhi Police. The same was to be submitted by the petitioner to the Rajasthan Police within seven days for his appointment in Rajasthan Police. On October 5, 2018, the case of the petitioner was rejected by Rajasthan Police on the basis of having more than two children. Immediately, on October 08, 2018, the petitioner



made an application with the Delhi Police for rejoining. On February 12, 2019, the Delhi Police rejected the application of the petitioner for rejoining the Delhi Police. The petitioner files a writ petition before the Rajasthan High Court regarding the action taken by Rajasthan Police in not appointing him in Rajasthan Police on the ground that he has more than two children. The same was dismissed.

6. In March, 2019, the petitioner filed an O.A. 1047/2019 for quashing the impugned order dated February 12, 2019, and for reinstatement.

7. On May 04, 2023, this Court noting the facts of the case wherein the petitioner has been left without any job, had called upon Mrs. Avnish Ahlawat, learned Standing Counsel for the respondent to look into the matter so that the petitioner can be taken back in service as he is an experience/qualified person for the post.

8. Today, Mrs. Ahlawat has placed before us a communication dated October 05, 2023, addressed to her along with note dated May 16, 2023 of the Assistant Commissioner of Police, Headquarters-III, wherein the Delhi Police has expressed to re-enlist the petitioner in terms of Section 28 of the Delhi Police (Appointment and Recruitment) Rule, 1980. It is also stated that, under the said Section re-enlistment is permissible only in the rank of Constable.

9. On a specific query to learned counsel for the petitioner, whether the petitioner is ready to accept his re-enlistment under Section 28 of the Delhi Police (Appointment and Recruitment) Rule, 1980, his answer is in affirmative.

10. If that be so, we dispose of the writ petition setting aside the order of the Tribunal dated December 23, 2022 and order dated February 12, 2019,



rejecting the petitioner's application and direct the respondent/Delhi Police to re-enlist the petitioner as a Constable under Section 28 of the Delhi Police (Appointment and Recruitment) Rule, 1980, subject to fulfillment of all the conditions necessary for such appointment.

11. The re-enlistment would mean that appointment of petitioner in Delhi Police is a fresh one. The necessary action shall be taken by the respondent within a period of six weeks from today.

12. The petition is disposed of.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

OCTOBER 06, 2023/ds