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

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Date of decision: 16.02.2023

+ W.P.(C) 16430/2022

VINAYAK SINGH

..... Petitioner

Through: Mr.Ankur Chhibber, Mr.Himanshu
Tiwari, Mr.Anshuman Mehrotra,
Mr.H.S. Tiwari, Mr.Nikunj Arora,
Mr.Arjun Panwar & Ms.Smardhi
Bhutt, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Rajesh Kumar Singh, CRPF.

CORAM:

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

J U D G M E N T (oral)

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

- a) *To quash the impugned order dated 02.09.2022 passed by Respondents based on which the Petitioner was denied grant of NOCI Cadre Clearance, lien on his post in CRPF, service book and thereafter set aside the same including the orders/letters dated 09.02.2022, 03.12.2020, 04.12.2019, 05.07.2018, 30.01.2018, 23.01.2018 and 05.10.2017;*
- b) *To direct the Respondents to grant of NOC/ Cadre Clearance in favour of the Petitioner in terms of the judgment dated 25.04.2022 passed by Hon'ble Apex Court in the matter of Alakh Shukla versus Union of India & Anr. bearing Civil*

W.P.(C) 16430/2022

Page 1 of 5

Appeal No. 3167 of 2022 and thereafter grant lien on his post in CRPF, service book as well as treat his resignation as technical resignation with all the consequential benefits;

- c) *To direct the Respondents to add previous service of the Petitioner, rendered in CRPF to his present service of Block Development Officer in the Government of Uttar Pradesh as per the existing orders/instructions on the subject and also to carry out his pay fixation accordingly within a period of two months from the date with which the Petitioner applies for the same.*

2. The case of the petitioner is that he joined CRPF on 27.01.2009 as an Assistant Commandant. The petitioner, while serving, applied for the “Combined State/Upper Subordinate Services Examination 2017” conducted by Uttar Pradesh Public Service Commission (UP PSC) as per the terms and conditions published in the Official Advertisement No.A-2/E-1/2017 dated 22.02.2017 and sought NOC/Cadre Clearance from the authorities to enable him to appear in the exam on 28.02.2017, however, in the meantime, he was promoted to the rank of Deputy Commandant in March, 2017. The abovesaid application seeking NOC was returned by the DIG Range, CRPF, Hyderabad vide his letter dated 30.03.2017. Thereafter petitioner time and again approached the authorities seeking grant of NOC but of no avail.

3. Learned counsel for the petitioner submits that petitioner cleared all the phases of the examination in October, 2019 and was allotted the post of Block Development Officer in UP Government vide his appointment letter dated 17.06.2020. After allotment of the post, petitioner sought personal hearing of respondent no.2 vide his letter dated 20.11.2020, however, the same was also rejected vide DIG (Pers.) Directorate signal dated 03.12.2020. Thereafter, the petitioner tendered his resignation on

04.12.2020 which was accepted by the respondents vide DIG (Pers.) Dte. General, CRPF, New Delhi Signal dated 25.01.2021 and intimated to the petitioner to be SOS w.e.f. 03.02.2021 (AN). The petitioner vide his representation dated 06.07.2021 approached the Commissioner, Rural Development, Government of Uttar Pradesh with a request to add his previous service of the CRPF to his present service as per the existing orders/ instructions on the subject and also to carry out his pay fixation, however, the same was returned unactioned vide letter dated 20.09.2021. Being aggrieved, petitioner approached CRPF through DDO, Lucknow vide his letter dated 27.10.2021 to provide his service book, however, the same was also refused.

4. Lastly, the petitioner issued legal notice dated 20.05.2022 to the respondents to issue NOC, lien on his post in CRPF as well as service book to him in terms of judgment dated 25.04.2022 passed by the Hon'ble Supreme Court in the matter of "**Alakh Shukla vs. Union of India & Anr.**", however, the same was also rejected. Hence, the present petition.

5. On the last date of hearing i.e. on 30.11.2022, counsel appearing on behalf of the petitioner submitted that case of the petitioner is squarely covered by the judgment of the the Hon'ble Supreme Court passed on 25.04.2022 in the case of "**Alakh Shukla vs. Union of India & Anr.**" in Civil Appeal No.3167/2022 (arising out of SLP(C) No.7814/2022).

6. On the other hand, learned counsel appearing on behalf of the respondents, on instructions, submitted that case of the petitioner is different from the case of **Alakh Shukla (supra)**, therefore, he sought time to file counter affidavit.

7. It is not in dispute that petitioner and Alakh Shukla appeared in the

same examination (UP PSC). Alakh Shukla was selected as a Naib Tehsildar while the petitioner herein is selected as a Block Development Officer (BDO). The Hon'ble Supreme Court in paras 4 to 7 observed as under:

"4. The appellant, who was an Assistant Commandant in the Central Reserve Police Force, applied for a no objection certificate to join the Uttar Pradesh Upper Subordinate Services. The request was refused, following which writ proceedings were instituted before the High Court. The appellant appeared for the preliminary examination conducted by the Uttar Pradesh Public Service Commission. After he cleared the preliminary examination, he appeared for the second stage examination in September-October 2016, which he successfully cleared in the result which was declared on 16 November 2018. There was a delay on the part of the appellant in seeking the permission of the second respondent. On 26 November 2018, he informed the second respondent and requested the grant of an NOC along with the cadre clearance. The request of the appellant was declined on 4 January 2019 on the ground that the post for which he had applied was lower in status and, therefore, he was not eligible for the grant of an NOC. Eventually, in February 2019, the appellant was declared successful in the examination and was allotted the post of Naib Tahsildar. The High Court declined to entertain the grievance of the appellant, by its impugned judgment, purely on the ground of delay.

5. xxxxx

6. xxxxx

7. In our view, it has become unnecessary for this Court to express any opinion on the ground which has weighed with the second respondent or on any broader issue of law since the appeal can be disposed of on a narrow ground, namely, that the appellant has been permitted to demit service by the due acceptance of his resignation. As a consequence, senior counsel appearing on behalf of the appellant states that absolutely no financial burden would be cast on the respondents since it is the State of Uttar Pradesh which would be bearing the obligation to defray the salary and other benefits due to the appellant upon his appointment. In this backdrop, it would be iniquitous to deny the appellant the necessary clearance so as to formally join the service of the UP Government. As a matter of fact, the Court is informed that the appellant is already serving as Naib Tahsildar. We accordingly direct that a formal clearance permitting the appellant to work as Naib Tahsildar in the UP Government shall be issued by the competent authority within a period of two months from the date of this order."

8. In view of the judgment of the Apex Court, we are inclined to hold that the petitioner is already serving as Block Development Officer. We accordingly direct that a formal clearance permitting the petitioner to work as Block Development Officer in the UP Government shall be issued by the competent authority within a period of four weeks from today.

9. We have also accepted the statement of the petitioner that no claims/demands or outstandings shall be raised by the petitioner on the respondents for the period for which he has worked.

10. In view of above, petition is disposed of in terms of *Alakh Shukla* (*supra*) judgment dated 25.04.2022.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 16, 2023/ab