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

+ **W.P.(C) 12662/2022**

CT. ANKIT

.....Petitioner

Through: **Mr. Yashpal Rangi, Adv.**

versus

UNION OF INDIA AND ORS

.....Respondents

Through: **Mr. Ajay Jain, SPC with Ms. Bijay Lakshmi, Mr. Krishna Sharma, Mr. M. N. Mishra and Ms. Shreya Jain, Adv.**

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

18.07.2024

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1. By way of the present writ petition under Article 226 of the Constitution of India, the petitioner has approached this Court seeking a direction to the respondents to grant him retrospective seniority as a Constable (GD) w.e.f. 02.02.2013, i.e. the date when other candidates selected in the same recruitment conducted by the Staff Selection Commission had joined.

2. Learned counsel for the petitioner submits that though the petitioner's name was based on his merit, he was selected and issued an offer of appointment to join basic training on 02.02.2013, he was not permitted to join the training on the ground that there was a criminal case pending against him. The petitioner was, however, acquitted in the said criminal case on



16.12.2014 and immediately thereafter informed the respondents about his acquittal but he was still granted appointment only on 01.03.2017, that too without protecting his seniority. He contends that with the petitioner having been acquitted, the very ground on which he was denied appointment and therefore, in the criminal case, no longer holds good, the respondents ought to have granted him retrospective seniority cum all the consequential benefits.

3. On the other hand, Mr. Ajay Jain, learned counsel for the respondents opposes the petition by contending that the petitioner cannot claim parity with those candidates, who did not have any criminal case pending against them at the time of their selection. Furthermore, after the petitioner informed the respondents about his having been acquitted in the criminal case, the respondents were required to follow the laid down procedure including verification of his antecedents through the local police, which process took time and therefore, respondents have granted him seniority and all other benefits from the date he joined service w.e.f. 01.03.2017.

4. Having considered the submissions of the learned counsels for the parties and perused the record, more specially, the letter dated 02.01.2015 addressed by the Dy. Inspector General, CISF RTC Barwaha to the Asstt. Inspector General/TS, CISF NISA, Hyderabad forwarding a copy the Trial Court's decision dated 16.12.2014 whereby the petitioner was acquitted. From a perusal of this letter, it is clear that the respondents were informed about the petitioner's acquittal in December 2014 itself, and therefore, were required to take immediate action to appoint him. We are of the view that the petitioner could not be granted seniority or any consequential benefits w.e.f. 02.02.2013 i.e. the date when other candidates have joined as he was



involved in a criminal case at that stage. However, there is no demand to the fact that he was acquitted on 16.12.2014, which position was duly communicated to the respondents promptly by him.

5. In these circumstances, we are of the considered view that merely because the respondents took more than two years to verify the petitioner's antecedents position, he cannot be made to suffer. We are accordingly of the opinion that the petitioner is entitled to be granted notional seniority and pay fixation w.e.f. 01.01.2015 i.e. two weeks time from the date of his acquittal in the criminal case.

6. The writ petition is accordingly allowed partly by directing the respondents to grant notional seniority as a Constable (GD) to the petitioner w.e.f. 01.01.2015. Needless to say, the respondents will also fix his pay notionally from the said date, though he will not be entitled to any back wages on this ground. Consequential orders in terms of this order be passed within 12 weeks from today.

7. The writ petition, is accordingly disposed of, in the aforesaid terms.

REKHA PALLI, J.

SHALINDER KAUR, J.

JULY 18, 2024/ss