



2024 DHC 455-00



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

% *Date of decision: January 22, 2024*

+ W.P.(C) 10288/2020 & CM APPL. 32549/2020

(12) CPL. PAWAN KUMAR

..... Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. Nikunj Aroa, Mr. Arjun Panwar and Mr. Ankit Koul, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Abhinav Bhardwaj, Advs. with Sqn. Ldr. M.N. Khan and Sgt. Vikas Kumar. for UOI.
Mr. Tapes K. Singh, Sr. Adv. with Mr. Rajiv Shankar Dvivedi, Tulika Mukharjee and Ms. Zia Khan, Advs. for R4 and R5.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

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

“In view of the above, it is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

i. Issue a Writ of Certiorari for quashing of the remark endorsed in the application dated 19.02.2020 that the Petitioner cannot be issued NOC as he is holding skill level



'B' in terms of AFO 33/2017 despite the fact that the same has been struck down by this Hon'ble Court on 11.03.2020 in W.P.(C) 634/2020 titled as Subhash Chand v Union of India and of the Show Cause Notice and warning issued by the Respondents to the Petitioner on 18.11.2020 and 25.11.2020 respectively; and

ii. Issue a Writ of Mandamus directing the Respondents to issue NOC and discharge the Petitioner from the post of Corporal so that he can join the post he has been selected for i.e. Deputy Collector in the state of Jharkhand or in the alternative consider his discharge, on compassionate ground in terms of 2(f) of the AFO 16/2008 as well as on medical ground in light of the Air Force Instruction issued on 02.09.2019 as he has been categorized as medical category A4G4 (P) making him ineligible for being promoted to the rank of Master Warrant Officer including next rank of Sergeant, keeping in mind the career progression and enhancement of the Petitioner; and

iii. Pass any such orders as the Hon'ble Court may deem fit in the light of above mentioned facts and circumstances of the case."

2. The grievance of the petitioner is that respondents are not granting him NOC / discharge to enable him to join the civil post of Deputy Collector in the State of Jharkhand. Though the respondent Air Force has contested the relief sought by the petitioner, we have been informed that an order dated January 19, 2024 has been passed by the Air Force to discharge the petitioner w.e.f February 29, 2024 on medical grounds. The effect of the order is that the petitioner shall be physically relieved of his position in the Air Force.

3. Mr. Ankur Chhibber, learned counsel appearing for the petitioner states, that in view of the order dated January 19, 2024



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passed by the respondents, the petitioner shall take up the assignment of the Deputy Collector in the State of Jharkhand within one week of February 29, 2024.

4. At this stage, learned counsel appearing for the respondent Nos. 4 & 5, would draw our attention to the counter-affidavit filed by the said respondents to contend the following stand:

“6. It is humbly submitted that the fact that the petitioner is already employed in Indian Air Force, has been concealed from the answering respondents. This fact has been concealed by the petitioner which is evident from the application form submitted by the petitioner in Combined Civil Services Main Examination, 2016, whereby it was directed that if he/she is a government employee then the application form had to be forwarded by the present Head of the Office/Controlling officer. However, this column was consciously and deliberately left blank by the petitioner.

True copy of the original as well as the translated copy of the application form submitted by the Petitioner for the Combined Civil Services Main Examination, 2016, has been annexed herewith and marked as ANNEXURE R-1 (Page // to 21 to the present Counter Affidavit.

7. It is most humbly submitted that after being selected the petitioner appeared for document verification on 08.07.2020. However, at the time of document verification also, the petitioner mentioned NA in the previous employment status column of the form which was provided to him during document verification held for the selected candidates in Department of Personnel, Administrative Reforms and Rajbhasha on 8 July, 2020.



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True copy of the original as well as translated copy of the form dated 08.07.2020 filled by the petitioner during Certificate Verification, has been annexed herewith and marked as ANNEXURE R- 21 Page 22 1025 to the present Counter Affidavit.”

5. Mr. Chhiber on the other hand disputes the stand of the State of Jharkhand. We say nothing on the stand taken by the State of Jharkhand in these proceedings as these proceedings are limited to the action of the Air Force, not granting the NOC/discharge to the petitioner.

6. In fact, Mr. Chhibber submits that, as the petitioner has been granted discharge, the grievance of the petitioner in the writ petition has been satisfied. If that be so, the petition is disposed of.

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Dismissed as infructuous.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 22, 2024/jg