



2024-1000-231-DB



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

% *Date of decision: January 11, 2024*

+ **W.P.(C) 11161/2020 & CM APPL. 34809/2020**

(12) **SGT RAJEEV KUMAR**

..... Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. H.S. Tiwari, Mr. Nikunj Arora, Mr. Arjun Panwar, Mr. Amrit Koul, Ms. Samridhhi Bhatti, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Alexander Mathai Paikady and Mr. Krishnan V., Advs. for UOI. Sqn. Ldr. M.N. Khan, MWO Ashok Janged, Sgt. Vikash Kumar and Sgt. Ashok Kumar.

Mr. Tapes Singh, Mr. Rajeev Shanker Dwivedi, Ms. Tulika Mukherjee, Mr. Zair A. Khan Advocate Mr. B. Sharma, 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:

1. Issue a Writ of Certiorari for quashing of the remark endorsed in the application dated 17.02.2020 to the extent whereby it has been stated that the Petitioner cannot be issued NOC as he does not fulfill the requirement of AFO 33/2017 despite the fact that the requirement of holding skill level "A has been struck down by this Hon'ble Court on 11.03.2020 in W.P.(C) 634/2020 titled as Subhash Chand Union of India and of the signal dated 02.07.2020 and application dated 11.12.2020 submitted by the Petitioner seeking discharge from service.

2. Issue a Writ of Mandamus directing to the Respondents to discharge the Petitioner from the post of Sergeant 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 Para 2 of the AFO 16/2008, keeping in mind the career progression and enhancement of the Petitioner.

3. 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. In substance, the prayer sought is that the respondent Nos. 1 to 3, be directed to issue a No Objection Certificate ('NOC', for short) to the petitioner to seek appointment on a civil post of Deputy Collector in the State of Jharkhand or in the alternative consider his discharge on compassionate ground in terms of Para 2 of the AFO 16/2008.



3. Mr. Ankur Chhibber, learned counsel appearing for the petitioner would submit that as the petitioner is completing 20 years of service on January 22, 2024 and has sought discharge from respondent/Air Force and in fact his request for discharge effective from January 31, 2024, has been acted upon and an order in that regard has been issued.

4. The representative appearing for respondents including Indian Air Force submits that, in terms of the order dated November 25, 2022, the petitioner shall stand discharged from Air Force effective from January 31, 2024.

5. We find that the State of Jharkhand, respondent Nos.4 and 5 has filed a counter-affidavit, wherein, their stand is that the petitioner while applying for the post of Deputy Collector has concealed the fact that he is serving in the Air Force. According to the learned counsel appearing for the State of Jharkhand, the same is evident from the application form submitted by the petitioner in Combined Civil Services Main Examination, 2016, wherein, it was directed that if he / she is a government employee then the application form has to be forwarded through the present Head of the Office/Controlling officer. However, this column was left blank by the petitioner.

6. He also submits that, after the selection of the petitioner for the post, he appeared for document verification on July 14, 2020, the petitioner appeared on the said date informed State of Jharkhand that, he is currently working in Indian Air Force as an Airman and he has submitted application for (NOC) for joining the post of Deputy



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Collector in the State of Jharkhand, but due to procedural delays because of lockdown, the NOC has not been issued.

7. Suffice to state, when the matter was listed on December 24, 2020, this Court had passed an order restraining respondent Nos. 4 and 5 from cancelling the appointment of the petitioner for the reason that the petitioner has not joined the post of Deputy Collector on December 31, 2020.

8. In any case, the issue which has been raised in the petition is only for grant of NOC by the Indian Air Force / discharge and in view of the submissions made by Mr. Chhibber and the representative appearing for respondent Nos. 1 to 3 / Indian Air Force and the fact that the petitioner would stand discharged on January 31, 2024, the alternative relief sought by the petitioner for discharge has been granted and nothing further survives for consideration in this petition. Mr. Chhibber states that the petitioner shall approach the State of Jharkhand to join his duties as Deputy Collector within one week from January 31, 2024.

9. The petition is disposed of.

CM APPL. 34809/2020

Dismissed as infructuous.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 11, 2024/jg