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

+ W.P.(C) 13638/2019

JAI PRAKASH

.....Petitioner

Through: Mr. Chetan Lokur and Mr. Vaibhav
Kaul, Advocates.

versus

PEC LIMITED THROUGH ITS CHAIRMAN & MANAGING
DIRECTOR

.....Respondent

Through: Mr. Abhishek Sharma, Ms. Anchal
Sharma and Mr. Ajay K Tyagi, Advocates with
Mr. Pragyan Shrivastava, AR for PEC.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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31.07.2024

CM APPL. 43243/2024

1. This application has been filed by the Petitioner seeking the following relief:

“(a) Pass directions to the Respondent to take a final decision on the Representation of the Petitioner dated 30.07.2018 and placed before the Board of Directors vide Note for consideration dated 24.09.2019;.”

2. Since the relief sought in the application is the same as in the writ petition and is limited to a direction to the Respondent to take a final decision in respect of certain recommendations, this application is disposed of and with the consent of learned counsels for the parties, writ petition is taken up for hearing.

3. Application stands disposed of.

W.P.(C) 13638/2019 and CM APPL. 27603/2023

4. This writ petition has been filed seeking a limited relief for a direction to the Respondent to take a final decision in respect of the case of the



Petitioner in terms of the recommendations of the Grievance Committee vide Note dated 25.01.2019 and finding/recommendation of the Committee of Management vide Minutes dated 07.08.2019, in a time bound manner.

5. Petitioner joined the Respondent Corporation on 18.12.1989 as a Junior Assistant and was promoted to the post of Executive Assistant on 01.01.1995. In the year 2001, a preliminary inquiry was held by the Vigilance Cell of the Respondent against five employees viz. Sh. Jai Bhagwan, Sh. Babu Lal, Sh. A.S. Rajourya, Sh. Gian Chand and the Petitioner. The inquiry was in respect of the allegation of claiming reimbursements of Rs.3,600/- each allegedly through submission of bogus bills in connection with a trip to Trivandrum from 02.10.1999 to 08.10.1999.

6. It is averred that the Chief Vigilance Officer submitted a report on 22.10.2001 opining that *prima facie* a case was made out for investigation. Out of the other four employees, Jai Bhagwan opted for VRS which was accepted and he was relieved. Babu Lal was also relieved after his request for VRS was accepted w.e.f. 14.12.2001. On 06.11.2001, charge sheets were issued against the Petitioner and two other employees for imposition of major penalty. Petitioner was due for promotion Office Manager on 01.01.2002 but on account of the disciplinary proceedings, he was not promoted. The disciplinary proceedings culminated into imposition of major penalty of reduction to the lowest post vide order dated 04.12.2002 and thus Petitioner was reverted to the post of Junior Assistant w.e.f. 04.12.2002.

7. It is stated that A.S. Rajourya filed a writ petition in this Court being W.P. (C) No. 2661/2007 against the major penalty and on the ground that the Inquiry Officer was not competent to be appointed, vide order dated 17.12.2008, the inquiry was set aside with liberty to the Respondent to



initiate fresh inquiry as per law. Respondent thereafter initiated fresh inquiry vide Memorandum dated 20.02.2009 but despite request of the Petitioner, he was not placed back in the post in which he was serving prior to the major penalty. The second inquiry also culminated into the same penalty vide order dated 07.09.2010.

8. Petitioner avers that in this process, he had lost crucial 13 years of his service and made representations for sympathetic consideration of his case and vide Note dated 11.06.2014 prepared by Chief General Manager, the matter was placed before the Board of Directors. The Board of Directors in the meeting held on 22.08.2014 directed the Committee of Management to consider the representations though without retrospective financial benefits. By Notes dated 18.01.2017 and 27.06.2017, the matter was placed before the Committee of Management *inter alia* proposing that senior officers had already retired or attained promotion and Petitioner was suffering and therefore, looking at his conduct and behaviour, the penalty be reduced to grant him future promotions. As per the Petitioner, the Committee of Management *inter alia* decided that promotion be granted to the Petitioner from 01.10.2017 but without retrospective financial benefit *albeit* Petitioner had sought the benefit from 04.12.2002. By this decision, Petitioner was in fact granted a benefit of only three months since he was already due for promotion on 01.01.2018 and his substantive grievance remained leading to a representation dated 30.07.2018.

9. The Ministry of Commerce, the Nodal Ministry for the Respondent, vide Circular Nos. 32/2018 and 40/2018 directed constitution of a Grievance Committee for addressing work/service related issues of the employees of Respondent Corporation. On 11.12.2018, the Grievance Committee directed



formation of a three-members Committee to consider the case of the Petitioner and other aggrieved employees. In a detailed report dated 26.12.2018, the Committee *inter alia* recommended that the Petitioner and other junior employees had suffered immensely and their status be restored without monetary benefits. Accordingly, a fresh Note dated 25.01.2019 prepared by the Grievance Committee was placed for consideration before the Committee of Management. Petitioner avers that in the meeting held on 07.08.2019, Committee of Management was of the view that '*quantum of punishment suffered by these two employees is high as compared to the misconduct, however, matter to be placed before the Board being the Competent Authority*'. In the meeting held on 24.09.2019, it was recorded that the matter was being placed before the Board. However, since no decision was being taken, Petitioner approached this Court.

10. Mr. Chetan Lokur, learned counsel for the Petitioner submits that there was a unanimous opinion as reflected in various reports that Petitioner had suffered immensely and therefore, his case should be treated sympathetically to reduce the punishment and grant him his due promotions. However, none of these recommendations have been implemented and despite a passage of four years from the date of filing this petition, even till date no final decision has been taken. He thus urges the Court to pass a direction to the Respondent to take a final decision in terms of the recommendations, as aforementioned.

11. This Court finds merit in the contention of the Petitioner that if favourable recommendations were made from time to time, a final decision ought to have been taken by the Respondent instead of compelling the Petitioner to approach this Court. This petition is accordingly disposed of



directing the Respondent to take a final decision with respect to the case of the Petitioner in terms of recommendations of the Grievance Committee vide Note dated 25.01.2019 and finding/recommendations of the Committee of Management in the Minutes of meeting dated 07.08.2019 as expeditiously as possible and not later than four months from today. Needless to state that a reasoned and speaking decision shall be passed by the Respondent, which shall be communicated to the Petitioner, who will be at liberty to take recourse to legal remedies in case of any surviving grievance. The date already fixed, i.e. 11.11.2024 stand cancelled.

12. Pending application also stands disposed of.

JYOTI SINGH, J

JULY 31, 2024/jg/shivam