



2024:DHC:3588



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

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Judgment delivered on: 02.05.2024

+ W.P.(C) 84/2020 & CM APPL. 277/2020, CM APPL.
38039/2023

P. N. MURLI

..... Petitioner

versus

MINISTRY OF CONSUMER AFFAIRS, FOOD AND
PUBLIC DISTRIBUTION AND ANR. Respondents**Advocates who appeared in this case:**For the Petitioner: Mr. C. Mani Shankhar, Senior Advocate
with Mr. C. Arun Kumar and Mr. Sudhir
Nagar, Advocates.For the Respondent: Dr. Subhash C. Gupta, Advocate (through
VC)**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****JUSTICE TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 38039/2023**

1. This is an application seeking condonation of delay of 90 days in filing the rejoinder affidavit.
2. For the reasons stated in the application, the application is allowed.



3. The Rejoinder is taken on record.
4. Application stands disposed of.

W.P.(C) 84/2020

5. This is a writ petition under Article 226 of the Constitution of India, 1950 *inter alia*, seeking the following prayers:

“a) directing the Respondent to consider the representations of the Petitioner including the last representation dated 24.09.2019; and/or

b) review the performance of the Petitioner for the year 2011-2012 and 2012-2013 and sustain the assessment of the Reporting Authority and record finally that the overall performance of the Petitioner during the said period was outstanding; and/or

c) and/or Pass any other and further order and/or direction, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.”

6. It is the case of the petitioner that the petitioner was appointed as a Scientist B-Grade on 29.05.1995 in the Bureau of Indian Standards. On consideration of his performance as Scientist, the respondents from time to time, the petitioner promoted to the post of Scientist Grade-D on 01.01.2010. It is submitted that on 11.02.2013, the officials of the Central Bureau of Investigation had conducted a search at the office of the petitioner and the petitioner was arrested on the allegations of corruption under the Prevention of Corruption Act, 1988. The petitioner was subsequently released on bail and the learned Special Court had convicted the petitioner on 19.02.2016.



Subsequently, as a consequence of the said conviction by the Special Court, the petitioner was dismissed from service on 04.11.2016. The petitioner preferred an appeal before the High Court of Judicature at Madras by way of an appeal bearing Criminal Appeal No.162/2016. By the order dated 19.07.2017, the said High Court *vide* its judgment dated 19.07.2017 set aside the said conviction and the sentence awarded to the petitioner and acquitted him of all the charges.

7. By the order of the Director General of the respondent dated 08.05.2018, the petitioner was directed to be reinstated his service with effect from 28.05.2018. Consequent upon joining of the petitioner, on submitting the representation, the Head of the Human Resource Department in a proceeding dated 20.06.2018, issued an order treating the entire period between 12.02.2013 to 27.05.2018, a day before reinstatement, as a period spent on duty and fixed the scale of pay increment and all other attendant benefits. The petitioner claims to have been granted the benefits subsequently. The petitioner made a request to the respondents for the promotion to the post of Scientist E-Grade, which according to the petitioner was not considered by the respondents. From December, 2018 through till the time the present impugned order was passed, there was neither any action taken nor any response furnished to the petitioner, constraining the petitioner to file the present writ petition.

8. This Court has heard Mr. C. Mani Shankhar, learned Senior Counsel appearing for the petitioner and Mr. Gupta, learned counsel appearing for respondent/the Bureau of Indian Standards.

9. Without getting into the merits of the matter, it is clear from the



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impugned order that the Competent Authority has not applied any reasonable test, on the basis of which the impugned order was passed. It is also very clear from the perusal of the said impugned order that it is perfunctory and no reasons have been attributed as to why and for what reasons, the representation of the petitioner was not worth consideration. It is trite that the representation of a party ought to be considered and disposed of with due reasons, so as to ensure that the party is aware as to on what grounds, his representation has been rejected. To make things more clear, the impugned order is extracted hereunder:

**BUREAU OF INDIAN STANDARDS
(HUMAN RESOURCE DEVELOPMENT DEPARTMENT)**

Manak Bhawan,
9, Bahadur Shah Zafar Marg,
New Delhi-110002

Ref: H.R.D.D/A.P.A.R.(2011-2012)/061557 Date: 08.12.2020

MEMORANDUM

This has reference to the appeal received from Shri P N Murali, Sc. D (TXD) vide letter dated 25 February 2020 for consideration to reassess his performance and to expunge the adverse remarks recorded by Accepting Authority, in his APAR for the period 2011-12.

2. In this connection, it is informed that after due consideration of above said appeal, the Competent Authority has decided not to make any change in the overall grading/assessment of his APAR for the period 2011-12.

SD/-
(Deepak Kumar Aggarwal)
Chief ((Human Resource Development Department)

Shri P N Murali
Scientist- D (TXD)
BIS Directorate General
New Delhi


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10. This Court is unable to appreciate that once the petitioner has been reinstated in services coupled with the fact that the period of absence of the petitioner has been treated to be as in service, why all the benefits flowing therefrom ought not to have been granted to him. Merely because the financial benefits which were accruable to him, were granted does not dis-entitle the petitioner from seeking a fair consideration of promotion to the next Grade.

11. The representation of the petitioner seeking promotion to Grade E from Scientist Grade-D has been rejected by the impugned order which is non speaking.

12. In view of the above, this Court is of the considered opinion that the said impugned order cannot withstand with scrutiny of law and is accordingly set aside. The respondents are hereby directed to consider this amended writ petition as the substantive representation on behalf of the petitioner for the purposes of consideration of promotion from Scientist Grade-D to Scientist Grade-E and dispose of the same in accordance with law.

13. The Competent Authority of the respondent shall afford an opportunity of hearing to the petitioner. The petitioner is also entitled to file any further documents which may have subsequently been issued by the respondents while in service for the consideration of the Competent Authority. The exercise shall be carried out within eight weeks from the date of receipt of the order. It is needless to state that the said order shall be speaking. The petitioner shall also be furnished the copy of such order forthwith, so as to enable him to take recourse to law, should the need arise.



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14. With the aforesaid directions, the present writ petition is disposed of with no order as to costs.

15. Pending applications, if any, too stand disposed of.

TUSHAR RAO GEDELA, J

MAY 2, 2024/kct