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

+ **W.P.(C) 14941/2024**

DR ASHOK KUMAR MAURYA

.....Petitioner

Through: Mr. Tushar Srivastava and Mr. T.D. Yadav, Advocates.

versus

**UNION OF INDIA THROUGH SECRETARY
& ORS.**

.....Respondents

Through: Mr. Vinay Yadav, SPC with Mr. Abhinav M. Goel, Advocate for UOI.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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23.10.2024

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

(i). *To set aside & quash the impugned order/letter dated 23.07.2022 to the extent advertised/invited application for filling of the post of scientist 'D' in the pay scale Rs. 78,800-2,09,200 (Pay Level 12 in pay matrix as per the 7th CPC) by deputation (Including short term contract).*

(ii). *To set aside & quash the impugned letter no.266/Admn/NDTL/2018-2019 Dated 22.11.2022.*

(iii). *To direct the respondents to consider the case of the petitioner for up gradation of APAR for the year 25.05.2018 to 31.03.2019 and APAR for the year 01.04.2019 to 31.03.2020 which is pending vide representation dated 30.10.2022. consequently, direct the respondent to consider promotion for the post of Scientist 'D' accordingly.*

(iv). *To direct the respondents to grant all the consequently benefits like seniority, and pay and allowances and arrears to the petitioner."*

2. Factual matrix to the extent relevant is that Petitioner was initially appointed as Scientist 'C' in National Dope Testing Laboratory ('NDTL')/



Respondent No.2 vide order dated 11.06.2018 w.e.f. 25.05.2018. On 25.03.2021, Respondents notified the amended Recruitment Rules in respect of 15 scientific posts including the post of Scientist 'D'. On 20.12.2021, final seniority list of Scientist 'C' was issued reflecting seniority as on 30.11.2021.

3. It is averred that on 27.04.2021, Petitioner made a representation against his APAR for the year 2018-2019. While the representation was pending, applications were invited on 23-29.07.2022 from eligible and willing officers working in Central Government/State Government/Public Sector Undertakings/Autonomous Organizations/Central/State Universities for filling up the post of Scientist 'D'. Posts under the direct recruitment quota were filled in March, 2022 but vacancy falling in promotion quota was not filled up for the reason that one Dr. Sachin Dubey at seniority No.2 on the post of Scientist 'C' resigned and instead of considering the Petitioner, the vacancy was advertised for filling up by deputation.

4. It is further averred that Petitioner made another representation on 01.08.2022 requesting NDTL to cancel the advertisement for filling up the post of Scientist 'D' by deputation and to conduct DPC and consider the candidates eligible for promotion as per the applicable Recruitment Rules. It is averred that Petitioner also challenged the adverse entries in his subsequent APAR for the year 2019-2020 highlighting that the same was not reviewed by the CEO, NDTL, who was the Appointing Authority of the Petitioner as also that there was no Accepting Authority in the said APAR. The grievance of the Petitioner is that till date, the representations of the Petitioner are still pending consideration and this is adversely affecting his promotion to the post of Scientist 'D' and future career prospects.



5. Learned counsel for the Petitioner reiterates the averments in the writ petition and submits that the adverse entries in the APARs for the years 25.05.2018 to 31.03.2019 and 01.04.2019 to 31.03.2020 have impacted the future career prospects of the Petitioner including his next promotion to the post of Scientist 'D'. Despite the settled law that not only below benchmark APARs or those with adverse entries, but all APARs have to be communicated to the employees, NDTL communicated the impugned APARs after considerable delay and the representations made against them are still pending consideration. Serious infirmities are highlighted in the APAR for the period 01.04.2019 to 31.03.2020 questioning the competence of the Reporting Officer as also bringing forth that there is no Accepting Authority in the said APAR.

6. Issue notice.

7. Mr. Vinay Yadav, learned counsel accepts notice on behalf of UOI and submits that he has no role to play in the matter as the impugned APARs concern Respondent Nos. 2 and 3.

8. Considering that representations made by the Petitioner against the APARs for the years 25.05.2018 to 31.03.2019 and 01.04.2019 to 31.03.2020 are still pending consideration with NDTL, this writ petition is disposed of at this stage, with a direction to Respondents No. 2 and 3 to dispose of the pending representations against the aforementioned APARs, within a period of six weeks from the date of receipt of this order and pass a reasoned and speaking order, which shall be communicated to the Petitioner within a week thereafter and Petitioner will be at liberty to take recourse to legal remedies available to him in case of any surviving grievance.



9. It is made clear that this Court has neither entered into nor expressed any opinion on the merits of the case.

JYOTI SINGH, J

OCTOBER 23, 2024/shivam/YA