



2024:DHC:8682-DB



\$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 08.11.2024***

+ W.P.(C) 15577/2024 & CM APPL. 65361/2024

SANDEEP KUMAR

.....Petitioner

Through: Mr.Himanshu Gautam,
Ms.Niharika Pun, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms.Bharathi Raju, Sr. Panel
counsel, UOI.
Ms.Archana Kumari, GP, UOI**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed challenging the Order dated 23.10.2024 / 25.10.2024, by which the petitioner's nomination for the theoretical phase of the GTO-283 course, scheduled from 11.11.2024 to 13.12.2024, has been cancelled, and instead, Deputy Commandant Devabrat Akshay Mohakul has been nominated for the said course.
2. The learned counsel for the petitioner contends that the above action has been taken by the respondents merely on the basis of a Preliminary Inquiry in which the petitioner was not even called to explain his stand, nor was a confirmation taken from the earlier Commanding Officer- DIG T.N. Upadadhyay if the nomination of the petitioner to the said course had been sent with his approval. The learned counsel for the petitioner submits that the



nomination of the petitioner for the said course cannot be cancelled without initiating Disciplinary proceedings by issuing a charge memo or a charge-sheet. In support, he places reliance on the judgment of the Supreme Court in *Union of India v. K.V. Jankiraman*, (1991) 4 SCC 109.

3. On the other hand, the learned counsel for the respondents, who appears on advance notice, submits that this is the second round of litigation initiated by the petitioner on identical facts, and in fact, by merely tweaking the relief prayed. She submits that the petitioner had not only sent his own nomination from the official email of the Commanding Officer, but had later deleted the said email from the server so as to delete any trace of sending the same. She submits that the petitioner does not explain how he came to know that nominations for the course in question had been requisitioned nor has he given any proof of sending the said nomination with the concurrence of the then Commanding Officer.
4. We have considered the submissions made by the learned counsels for the parties.
5. We note that the petitioner had earlier filed a writ petition, being W.P.(C) 15064/2024, titled *Sandeep Kumar v. Union of India & Ors.*, praying for the following reliefs:

“a) Issue a writ, order or direction in the nature of certiorari quashing and setting aside the letter dated 16.10.2024 by which the nomination of the Petitioner is sought to be cancelled.

b) Issue a writ, order or direction in the nature of certiorari quashing and setting aside the Impugned letter dated 17.10.2024.



2024:DHC:8682-DB



c) Issue a writ order or direction in the nature of mandamus directing the Respondents to allow and relieve the Petitioner to attend the GTO-283 Course in accordance with the order dated 09.10.2024.”

6. This Court, by a detailed Judgment dated 25.10.2024, dismissed the said petition, noting the serious nature of contentions raised by the learned counsel for the respondents challenging the genuineness of the nomination sent by the petitioner using the e-mail of the then Commanding Officer. The petitioner has once again raised the same grievance by way of present petition. The only additional contention raised by the petitioner is that since disciplinary proceedings have still not been initiated against the petitioner, his nomination cannot be cancelled.
7. We have specifically enquired from the learned counsel for the petitioner whether the petitioner maintains his claim that he had the consent of the earlier Commanding Officer for sending the nomination from the Commanding Officer's e-mail. If that be so, this court will ask the learned counsel for the respondents to take an immediate confirmation of the same from the then Commanding Officer. However, we also warned the learned counsel for the petitioner that in case the then Commanding Officer refutes the claim of the petitioner, no further disciplinary inquiry may be then required and the petitioner may have to suffer the consequences. The learned counsel for the petitioner states that whether the then Commanding Officer had given his consent to the nomination of the petitioner to the Course, is an



2024:DHC:8682-DB



issue for the respondents to investigate and the petitioner will not comment on it at this stage.

8. We are of the opinion that the nomination was sought from the Commanding Officer, and given the serious doubt about the veracity of the petitioner's claim that his nomination was made by the then Commanding Officer or under his authority, there can be no order of restraint passed against the Commanding Officer sending the nomination afresh. Sending fresh nomination would not amount to a disciplinary action being taken against the petitioner. This Court, therefore, at the present stage, declines to interfere with the Impugned Order by which the Commanding Officer exercised his authority to nominate an officer for the Course.
9. We find that this petition is nothing but an abuse of the process of the Court, initiated to pursue the same relief through multiple litigations.
10. Accordingly, the present petition along with the pending application is dismissed with costs quantified at Rs.25,000/- to be deposited by the petitioner with the Delhi High Court Legal Services Committee within four weeks of this order.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 8, 2024
RN

Click here to check corrigendum, if any