



2024:DHC:9576-DB



\$~74

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

Date of decision: 09.12.2024

+ **W.P.(C) 16968/2024**

ANIL KUMAR

.....Petitioner

Through: Mr.P.Sureshan, Adv.

versus

UNION OF INDIA

.....Respondent

Through: Mr.Anshuman, SPC with
Mr.Vidur Dwivedi, GP with
Mr.G.S.Rathore, AC/CISF and
Mr.Yespal, Insp. /Exe.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 71865/2024 & CM APPL. 71866/2024 (Exemption).

1. Allowed, subject to all just exception.

W.P.(C) 16968/2024

2. This petition has been filed by the petitioner praying for the following reliefs:

- “a) Issue a writ of mandamus directing Respondents to fix the basic pay of the petitioner at par with his batch-mates by treating his appointment to the post of ASI/Exe as having been made notionally in the year 2011 and consequently quash and set aside the letter dated 8.7.2024 .*
- b) Direct the respondents to grant*



consequential seniority to the petitioner in the rank of SI/Exe at par with his batch-mates from the ASI/Exe 2011 batch, as the same has been violated by granting the petitioner a belated promotion while ignoring his rightful entitlement.

c) Direct the respondents to pay entire arrears of pay to the petitioner by treating that the petitioner was entitled to get the pay fixation at par with his batch mates in view of his notional appointment from a back date.

d) Direct the respondents to grant all consequential benefit and period of service benefit for all purpose and intends in future promotion as well.

e) Direct the respondents to pay interest @ 18 % per annum for the amount of arrears of pay as per prayer 'c' above.

f) Direct the respondents to pay cost of this litigation to the petitioner."

3. It is the case of the petitioner that the petitioner had applied for the post of ASI–Executive in the Central Industrial Security Force (in short, 'CISF') in the year 2010. Though the marks secured by the petitioner were above the cut-off for the OBC category, however, his result was withheld for want of an OBC certificate. The petitioner claims that the OBC certificate had been submitted along with his application form and also when he had appeared for the written examination under OBC category.
4. As the petitioner was not given the appointment, the petitioner filed a writ petition before the High Court of Rajasthan at Jaipur, being SB (Civil) W.P.No.8130 of 2012, which was allowed by the High Court *vide* its Order and Judgment dated 03.04.2014, with the following directions:



“In view of above, the writ petition is allowed. Directions are issued to the respondents to process the candidature of the petitioner and take into consideration the subsequent OBC certificate produced by him and intimate him directly about the outcome, within four weeks. In case he is selected and has to be appointed and there is consequently impediment in his being accommodated in ,one or the other batch for training, consequent directions are issued to the respondents to accommodate the petitioner at the relevant slot in the succeeding batch or batches of recruits for the purpose of training. The stay application also stands disposed of.”

5. The petitioner is aggrieved by the fact that although he was finally appointed to the post of ASI/Executive on 30.08.2014 and was assigned a provisional seniority at par with the ASI/Executive appointed from 2011 batch under the recruitment notification of 2010, however, his consequential seniority and the pay fixation were not done accordingly.
6. The petitioner has therefore, approached the present Court seeking the prayer reproduced hereinabove.
7. Issue notice.
8. Notice is accepted by Mr.Anshuman, the learned counsel for the respondent. He submits that in the Order dated 03.04.2024, there was no direction by the High Court of Rajasthan for the petitioner to be given retrospective seniority or notional benefit of pay fixation. In absence of such direction, the said relief cannot be granted. He further submits that the present petition



2024:DHC:9576-DB



before this Court would not be maintainable, as it amounts to seeking a review of the Order and Judgment dated 03.04.2014 passed by the High Court of Rajasthan.

9. We have considered the submissions made by the learned counsels for the parties.
10. As the basis of the claim of the petitioner arises from the Order and Judgment dated 03.04.2014 of the High Court of Rajasthan, we are of the opinion that the proper remedy of the petitioner would be to approach the High Court of Rajasthan in form of an appropriate proceeding for seeking the relief which is claimed in the present petition. The relief as claimed in the present petition cannot be granted by this Court.
11. We, therefore, dispose of this petition by reserving liberty to the petitioner to approach High Court of Rajasthan in the form of an appropriate proceeding.

NAVIN CHAWLA, J

RAVINDER DUDEJA, J

DECEMBER 9, 2024
RN/DG

Click here to check corrigendum, if any