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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1330/2025

MUKESH SHARMA

.....Petitioner

Through: Mr. Ajit Kakkar, Advocate.

versus

FOOD CORPORATION OF INDIA AND ORSRespondents

Through: Ms. Richa Kapoor, Mr. Kunal Anand, Ms. Udipti Chopra, and Mr. Gurnoor Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

11.02.2025

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1. By way of this petition under Article 226 of the Constitution, the petitioner assails an order dated 20.01.2025, by which the respondent No. 1- Food Corporation of India ["FCI"] has "*summarily terminated*" his appointment as Assistant Grade-III (Depot).
2. The petitioner was appointed in the category of ESM-2, i.e., Disabled Ex-Servicemen/Dependants of Ex-Servicemen killed in action.
3. The parties are at issue as to whether the petitioner was eligible for recruitment in this category.
4. The respondent, ostensibly applying an Office Memorandum dated 15.12.1979 issued by the Department of Personnel and Training, came to the conclusion that the petitioner's appointment was illegal, void *ab initio*, and *non-est* in the eye of law, and therefore terminated him,



although he had been granted appointment, posted, and had actually worked for more than one year.

5. In other similar cases, termination orders of this nature have been set aside on the submission of FCI, and the matter has been remanded to FCI for reconsideration. Reference may be made to an order dated 29.01.2025 in W.P.(C) 1094/2025, and an order passed today in W.P.(C) 1287/2025.

6. The present case, however, is somewhat different, to the extent that the petitioner now does not seek reinstatement in FCI. He has already been offered employment elsewhere, and has been issued a No Objection Certificate by FCI. Mr. Ajit Kakkar, learned counsel for the petitioner, draws my attention to the fact that the petitioner had resigned from the services of FCI on 16.01.2025, even prior to the order of termination dated 20.01.2025. However, the impugned order of termination will potentially cause an impediment to his Performance Certificate and Release Certificate, as well as his ability to accept an appointment in another Government Undertaking on a clean slate. He, therefore, seeks a direction for acceptance of his resignation by FCI, alongwith consequent directions with regard to issuance of the Conduct and Performance Certificate and Release Certificate.

7. Having regard to these facts, I am of the view that the appropriate course in the present case is to set aside the impugned order of termination dated 20.01.2025, as has been done in other similarly situated cases, and to remand the matter to FCI for a composite consideration in the light of the fact that the petitioner has also sought to resign from the services of FCI. The consideration of the petitioner's case may, therefore,



be on a slightly different footing from the other cases of a similar nature, and it is open to FCI to decide this case independently. In the event FCI considers it necessary to impose an order of termination instead of accepting the petitioner's resignation, it will pass a fresh order after giving the petitioner an opportunity of hearing before the competent authority. In the event of an adverse order, it will not be given effect for a period of two weeks after it is passed, and the remedies of the petitioner remain reserved.

8. The writ petition is disposed of in these terms.

PRATEEK JALAN, J

FEBRUARY 11, 2025/MR/JM/