

Ramashankar Yadav vs Union Of India And Others on 7 July, 2020

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw, Asha Menon

\$~VC-3

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ WP (C) 3993/2020, C.M. Appls.14324-14326/2020

RAMASHANKAR YADAVPetitioner
Through: Mr.Alok Alok Srivastava,
Advocate
versus

UNION OF INDIA AND OTHERSRespondents
Through: Mr.Siddharth Khatana and
Mr.Rishi Raj, Advocates for
respondents No.2 & 3 CRPF with
Mr. Vivek Kumar Singh, DC Law,
Pairvi officer

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

ORDER

% 07.07.2020

[VIA VIDEO CONFERENCING]

C.M. Appln. 14324/2020 (for exemption from filing fair copies of dim annexure) and C.M. Appln. 14326/2020 (for exemption from filing original vakalatnama, attested affidavit, court fee and welfare stamp)

1. Allowed, subject to just exceptions and as per extant rules.
2. The applications are disposed of.

W.P. (C) 3993/2020, C.M. Appln. 14325/2020 (for urgent interim directions)

3. The petitioner, working as a Head Constable (GD) in the respondents Central Reserve Police Force (CRPF), has filed this writ petition seeking seniority and consequential benefits in the post of Head Constable (GD) w.e.f. 16th December, 2013 or w.e.f. any date of the year 2013 (instead of w.e.f. 19th September, 2014) and seeking mandamus to the respondents CRPF to consider the candidature of the petitioner for promotion to the next post of Assistant Sub-Inspector (GD) in terms of recent Signal No.P.VII.99/2019-ESTT (10/2019)-DA-8 dated 4th June, 2020.

4. It is the case of the petitioner (i) that the petitioner joined the respondents No.2 & 3 CRPF as Constable (GD) in 2006; (ii) that the petitioner participated in the Limited Departmental Competitive Examination (LDCE) of the year 2013 for promotion to the post of Head Constable and was successful therein and promoted as a Head Constable, but was granted seniority in the post of Head Constable w.e.f. 19th September, 2014; (iii) that the candidates who participated in the LDCEs of the years 2011, 2012, 2015 and 2016 and were successful therein, were granted seniority with effect from the respective years 2011, 2012, 2015 and 2016, but the petitioner, though participated in the LDCE of 2013, has been conferred seniority with effect from 19th September, 2014. The petitioner thus claims parity with those successful in the LDCEs of the years 2011, 2012, 2015 and 2016.

5. The cause of action, if any accrued to the petitioner on 14th November, 2014 when the communication Annexure P-3 to the petition, to the effect that those who have been selected as Head Constable in LDCE 2013 will claim seniority for the next promotion w.e.f. 19th September, 2014 in accordance with the merit list, became known to the petitioner. It is not the case of the petitioner that the same was not known to the petitioner. This petition has been filed after nearly six years therefrom and is highly belated and there is no explanation whatsoever for the delay. The petitioner appears to have been activated only on 4th June, 2020 when the consolidated list for all the Head Constables for the purpose of promotion to the post of Assistant Sub-Inspector was declared and whereafter the petitioner first filed a representation on 12th June, 2020 and without waiting for any response thereto, has filed this petition. The petition thus, in our view is liable to be dismissed on the ground of laches, acquiescence and waiver alone.

6. Not only so, the petitioner, by claiming seniority w.e.f. 16th December, 2013 or from any other date, post the year 2013, is also seeking to upset the seniority of others and who have not been made parties to this petition. No interference with the seniority list can be made without hearing those affected thereby.

7. Be that as it may, we have enquired from the counsel for the petitioner, the provision in the Recruitment Rules in this respect and the basis on which the petitioner claims seniority w.e.f. 16th December, 2013 and not from 19th September, 2014, as has already been conferred on the petitioner.

8. The counsel for the petitioner seeks time to check the position in the Recruitment Rules.

9. On enquiry, it is stated by the counsel for the petitioner that 16th December, 2013 was the last date for submission of the applications for participating in the LDCE announced for the year 2013

and the examination was held in February, 2014 and the result declared in June, 2014 and the petitioner was promoted as Head Constable in November, 2014.

10. The counsel for the respondents CRPF appearing on advance notice states that he has received instructions to the effect that as per Office Memorandum issued by the Ministry of Home Affairs, the seniority is with effect from the date of declaration of the result and the seniority of LDCE batches of the years 2011, 2012, 2015 & 2016 was also conferred with effect from the date of declaration of the result of the respective LDCEs.

11. The counsel for the petitioner not only seeks adjournment to look up the relevant Recruitment Rules, but also seeks opportunity to file an additional affidavit.

12. Additional affidavit if any, be filed within 10 days as sought.

13. The counsel for the respondents to also, before that date, place the Office Memorandum issued by the Ministry of Home Affairs referred to by him as well as any other document, which may be relevant for the controversy before the Court, with a copy to the counsel for the petitioner.

14. List on 19th August, 2020.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

JULY 07, 2020/s