

Si Gd Vinod Kumar vs Uoi And Ors on 4 February, 2019

Author: S.Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7577/2016

SI GD VINOD KUMAR Petitioner

Through Mr.N.L.Bareja, Advocate

versus

UOI AND ORS Respondents

Through Mr. Vivekanand Mishra, Sr.panel

counsel, Advocate for

Respondent/UOI

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% 04.02.2019

1. The issue involved in the present petition is delineated in the order dated 17th May, 2017 passed by this Court which reads as under:-

"Petitioner was selected pursuant to Limited Competitive Departmental Examination for the post of Sub Inspector (General Duty). The petitioner had accordingly submitted his technical resignation on 15th December 2012. The resignation was accepted on 8th March 2013 and he was immediately relieved to join the training course which commenced shortly thereafter.

The grievance of the petitioner is that in some cases, technical resignation were accepted in the month of December, 2012, as a result of which, such candidates have been given first increment with effect from July, 2013. The petitioner has been given the first increment with effect from 1st July, 2014.

The respondents in the counter affidavit have stated that the technical resignation given by the petitioner could not be accepted earlier because of want of posting order. This explanation, we feel requires further elucidation by the respondents. Respondents would clarify why the posting order was belatedly issued and delayed in the case of the petitioner. The respondents would also clarify the number of candidates and in whose cases, technical resignation were accepted before December, 2012. The said affidavit would be filed within four weeks from today. Response thereto of the petitioner may be filed within two weeks of service of the affidavit. Re-list on 2nd August, 2017."

2. The Respondents did not file their reply in terms of the aforementioned order. They were by the order dated 13th November, 2017 granted four more weeks time to file the affidavit failing which they would have to pay costs of Rs. 5,000/-.

3. Pursuant thereto the Respondents filed a short affidavit on 12th March, 2018 where inter-alia while not disputing that the Petitioner submitted his technical resignation on 15th September, 2012 which was accepted on 8th February, 2013, the delay of 70 days was sought to be explained as having been caused by „the then dealing assistant as well as supervisory staff due to oversight. It is stated that the said staff were issued „warning letters . It is further claimed that the technical resignation of only three of the 167 candidates selected for SI/GD through the LDCE 2012 was accepted prior to 31st December, 2012.

4. In the response filed by the Petitioner to the aforementioned short affidavit, it is pointed out that there were a large number of candidates, apart from the above three candidates, who received the first increment earlier to the Petitioner although in their cases the resignation was accepted after 31st December, 2012. Pay slips of some of them have been enclosed with the Petitioner s affidavit.

5. To the Court it appears that the Petitioner should not be made to suffer for the lapses on the part of the administrative/clerical staff of the Respondents in delaying the issuance of posting order to the Petitioner by 70 days. As already noticed this delay resulted in the Petitioner being denied the first increment with effect from 1st July, 2013. It was granted to him a whole year later with effect from 1st July, 2014. It is unfair to make the Petitioner bear the loss on account of the lapses of the Respondents.

6. In that view of the matter it is directed that with the Petitioner having submitted his technical resignation on 15th December 2012 itself, the delay of 70 days in issuing his posting order, for reasons not attributable to him, would not deprive him of being granted the first increment as SI/GD with effect from 1st July, 2013. The Respondents are accordingly directed to grant the Petitioner the first increment as SI/GD with effect from 1st July, 2013 and pass all the consequential orders, by way of re-calculation of the monetary and other benefits, within four weeks from today.

7. The petition is disposed of in the above terms.

8. Order be given dasti to counsel for the parties under the signatures of Court Master.

S.MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 04, 2019 mw