

Vivek Kumar vs.staff Selection Commission & Ors

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Court : Delhi

Decided On : Dec-06-2017

Appellant : Vivek Kumar

Respondent : Staff Selection Commission & Ors

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI Date of Order: December 06, 2017 W.P.(C) 9649/2015 VIVEK KUMAR

... Petitioner

Through: Mr. Rahul Sinha and Mr. Nitin K. Gupta, Advocates versus STAFF SELECTION COMMISSION & ORSRespondents Through: Ms. Sunieta Ojha and Mr. Talish Ray, Advocates for respondent No.2 CORAM: HON'BLE MR. JUSTICE SUNIL GAUR ORDER (ORAL) 1. Vide impugned order of 27th January, 2014 (Annexure P-14), petitioner has been debarred for a period of three years from taking the Staff Selection Examination and his candidature for the Combined Recruitment for Assistant Grade-III, in General, Depot, Technical and Accounts Cadres and Hindi Posts (AG-II) in Food Corporation of India Examination, 2012 has been cancelled.

2. It is the case of respondents that petitioner was found to be indulging in unfair means in the said Examination. Prior to impugned order, a Show-cause Notice of 10th June, 2013 (Annexure P-5) was served upon petitioner, which was responded to by petitioner vide Reply of 20th June, 2013 (Annexure P-6). To seek

quashing of impugned order (Annexure P-7), learned counsel for petitioner relies upon this Courts W.P.(C) 9649/2015 Page 1 of 3 Division Bench decision in Staff Selection Commissioner & Anr. v. Sudesh 2014 SCC OnLine Del 7534, which has been affirmed by Supreme Court vide its order of 19th July, 2017 in Civil Appeal No(s). 2836-2838/2017 titled Staff Selection Commission, Thr. its Chairman & Anr. v. Sudesh. The stand taken by contesting respondent-Staff Selection Commission in its counter-affidavit is as under:-

"In similar post examination analysis cases related to Combined Graduate Level Examination, 2012, the Commission has also filed an SLP No(s). 9019-9021/2015 in the Supreme Court against order dated 19.12.2014 in WP No.9055/2014, CM No.20669/2014 passed by Hon'ble High Court of Delhi at New Delhi, which is sub-judice wherein the Hon'ble Supreme Court has issued Notice and stayed the operation of the Impugned Order. The Order passed by the Hon'ble Supreme Court in SLP No(s). 9019-9021/2015 dated 06.04.2015 is annexed herewith and marked as ANNEXURE-R-1 In view of the averments made herein above and those to be urged at the time of arguments, the present writ petition may be disposed off as the Respondent will consider the case of the

... Petitioner

and all other similar case as and when the issue of post examination analysis is decided by the Hon'ble Supreme Court."

3. Learned counsel for petitioner submits that despite taking the aforesaid stand, respondents have not reconsidered petitioners case in light of Supreme Courts decision in Sudesh (supra) although review sought by respondents has been also dismissed on 31st October, 2017.

4. In the facts and circumstances of this case and in view of the stand taken by respondent-Staff Selection Commission in the counter affidavit, as noted hereinabove, this petition is disposed of, with direction to W.P.(C) 9649/2015 Page 2 of 3 respondent-Staff Selection Commission to re-consider impugned order (Annexure P-7) in light of this Courts Division Bench decision in Sudesh (supra), which has been affirmed by Supreme Court vide its order of 19th July, 2017, within a period of six weeks and its outcome be conveyed to petitioner within two weeks

thereafter, so that petitioner may avail of the remedies as available in law, if need be.

5. With aforesaid directions, this petition is disposed of.

6. Copy of this order be given dasti to counsels of both the sides to ensure its compliance. (SUNIL GAUR) JUDGE DECEMBER06 2017 s W.P.(C) 9649/2015
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