

Amar Singh Vs. Director General (Central Reserve Police Force) and anr.

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Court : Delhi

Decided On : Jan-30-2002

Reported in : 2002VAD(Delhi)1026; 97(2002)DLT364; 2003(1)SLJ207(Delhi)

Judge : Sanjay Kishan Kaul, J.

Appeal No. : Civil Writ Petition No. 5295/2001

Appellant : Amar Singh

Respondent : Director General (Central Reserve Police Force) and anr.

Advocate for Def. : T.V. George, Adv.

Advocate for Pet/Ap. : B. Chahar, Adv

Disposition : Petition allowed

Judgement :

Sanjay Kishan Kaul, J.

2. The petitioner was called for his promotional medical on 20.1.2001 and 21.1.2001. He was informed through a wireless order that the approval granted in 1999 was withdrawn and that he was required to take all 3 group tests again. The petitioner made an application through proper channel against the same on 16.2.2001 but the same was rejected on 10.4.2001. The petitioner thus approached this court through the present writ petition.

3. The Standing Order No. 6/99 deals with the eligibility condition for promotion of such candidates. The relevant Clause 2 is as under:-

'2. Failure in any group of subjects will be treated as failure in that group only and such candidates maybe re-tested in that group of subject during the final test of next course. However, failure in 2 groups of subjectswill be treated as failure in the whole course and such candidates would be required to undergo the whole courseagain. The entire syllabus has been divided into 3 groups i.e., Group I consisting of theory, Group II consistingof ground tests and Group III relating to field subjects.'

4. In view of the aforesaid if a person fails only in one of the groups then he is entitled to a second chance. However, the eligibility conditions of the same Standing Order also has Clause 5 which states:

'not more than three chances shall be admissible.'

5. The learned counsel for the petitioner thus contends that since the petitioner had passed two groups in the first instance he was rightly given a second opportunity for the remaining one group which he availed of. The petitioner filed and was thus granted third opportunity in view of the above Clause 5.

6. Learned counsel for the respondent on the other hand, contends that though in total 3 opportunities are to be given the permission to appear only in one group on having passed in the remaining group would be available only in 'next course' as stipulated in Clause 2 and would not be available for a third opportunity. Thus it is contended that in case of the third opportunity the petitioner has to take all the groups as communicated vide the telex messageon 21.1.2001.

7. I have heard learned counsel for the parties and considered the rival contentions. A reading of Clause 2 and 5 does not prescribe any restriction on the third chance. Clause 5 states that not more than 3 chances shall be admissible. Admittedly the petitioner has cleared the exam in third chance. Clause 2 also states that failure in one group and passing in two groups would provide another opportunity to the candidate. The expression 'next course' thus has to be read with

Clause 5 and in view thereof the petitioner cleared the exams within the stipulated chances.

8. The matter also does not rest at this. Admittedly, the respondents had declared the petitioner passed and qualified as far as back as in October, 1999. It is only when the petitioner went for his medical in January, 2001 that this decision was sought to be reversed after more than 15 months on the ground that it was a mistake. A reading of the rule coupled with the conduct of the respondent cannot result in a situation to deny the petitioner the benefit of having cleared the exam and to restart the whole process again.

9. In view of the aforesaid a writ of mandamus is issued quashing the decision communicated on 21.1.2001 and he petitioner be promoted to the post of SI in pursuance to his having passed the SUOCC course in October, 1999 subject to his clearance of medical which was not carried out at the last stage. The petitioner is also entitled to all consequential benefits of seniority and emoluments. The writ petition is allowed in above terms and parties are left to bear their own costs.