

Deepak Kumar Vs. Union of India and ors

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Court : Delhi

Decided On : May-30-2013

Judge : Gita Mittal

Appellant : Deepak Kumar

Respondent : Union of India and ors

Advocate for Pet/Ap. : Mr. Aditya Singh, Mr. Ruchir Mishra, Ms. Richa Kapoor, Mr. Soayib Qureshi

Judgement :

* + IN THE HIGH COURT OF DELHI AT NEW DELHI W.P.(C) Nos.2434/2013, 2439/2013, 2511/2013, 2513/2013 & 2514/2013 Date of decision:

30. h May, 2013 % + W.P.(C) 2434/2013 DEEPAK KUMAR Through: Petitioner Mr. Aditya Singh, Adv. versus UNION OF INDIA AND ORS Respondents Through: Mr. Ruchir Mishra, Adv. Ms. Richa Kapoor, Adv. for R-3, 4 & 7. with + W.P.(C) 2439/2013 PRADYUMN KUMAR TOMAR Through: Mr. Aditya Singh, Adv. Petitioner versus UNION OF INDIA AND ORS Respondents Through: Mr. Ruchir Mishra, Adv. Ms. Richa Kapoor, Adv. for R-3, 4 & 7. with + W.P.(C) 2511/2013 SHARWAN KUMAR YADAV Petitioner Through: Mr. Aditya Singh, Adv. versus UNION OF INDIA AND ORS Respondents Through: Mr. Ruchir Mishra, Adv. Ms. Richa Kapoor, Adv. for R-3, 4 & 7. with + W.P.(C) 2513/2013 VAREITHING A. SHATSANG Petitioner Through: Mr. Aditya Singh, Adv. versus UNION OF INDIA AND ORS Respondents Through: Mr Soayib

Qureshi, Adv. and + W.P.(C) 2514/2013 ASHWANI KUMAR Through:
Petitioner Mr. Aditya Singh, Adv. versus UNION OF INDIA AND ORS
Respondents Through: Mr. Ruchir Mishra, Adv. Ms. Richa Kapoor, Adv. for R-3, 4
&7. CORAM: HON'BLE MS. JUSTICE GITA MITTAL HON'BLE MS. JUSTICE
DEEPA SHARMA % ORDER 30 05.2013 GITA MITTAL, J (Oral) 1. The writ
petitioners seek before us quashing of the order dated 9th February, 2013 which
was passed by the respondent No.3 vide which the services of the petitioners who
were serving as ASIs (Executive) with the CISF were terminated during the period
of probation on the allegation of malpractices during the recruitment/selection
process conducted by the respondents to the said post.

2. The respondent terminated the services of these petitioners by an identical
order passed in the case of Deepak Kumar in WP(C) No.2434/2013 and which
reads as under: DIG/HEAD QUARTER CENTRAL INDUSTRIAL SECURITY
FORCE HOME MINISTRY RTC-Arakkonam Post Security Campus Ditt. Vellore,
Tamil Nadu Date:

09. 02.2013 Letter: E-37035/RTC (A) CISF/3d (B) ASI/EXE/TRG/2013/887
TERMINATION ORDER 1 Whereas CISF No.014506750 (Roll No.8201500154)
ASI/EXE (U/T) (3rd Bath) Deepak Kumar has been provisionally appointed for the
post of ASI/Exe in CISF vide CISF RTC Arakkonam Letter No. E-
14099/RTC(A)/CISF/Trg/12/3652 dated 22.05.2010 subject to the condition that
his service is liable to be terminated if there is prima face proof of having indulged
in any malpractice during the examination. As per information received from Staff
Selection Commission through CISF NO.014506750 (Roll No. 8201500154)
ASI/EXE (U/T) (3rd Bath) Deepak Kumar indulged in malpractice to qualify the
examination conducted by the SSC for the post of ASI/Exe 2011 in CISF. He has
been on probation for a period of two years from the date of his appointment and
still continues to be so.

2. Whereas by virtue of the provision contained in Rule 25 of CISF Rules, 2001,
the appointing authority of CISF No. 014506750 (Roll No.8201500154) ASI-EXE
(U/T) (3rd Bath) Deepak Kumar is empowered to terminate his service during the
period of probation, if it is of the opinion that he is not fit for permanent

appointment in CISF.

3. Now, therefore, in exercise of powers conferred upon the undersigned by virtue of Rule 25 of CISF Rules 2001, I hereby issue one months salary in lieu of one months notice to CISF No.014506750 (Roll No.8201500154) ASI/EXE (U/T) (3rd Bath) Deepak Kumar for termination of his services. He shall be deemed to be no more in service of CISF with immediate effect. To CISF NO.120405149, ASI/Exe (UT) Ashwani Kumar S/o Shri Ramakant Prasad, CISF RTC ARAKKONAM.

3. : Through Coy Commandar Kakatiya Coy in duplicate for service and returned the ackd, copy to this office for record. The petitioners have challenged the case primarily on the ground that even though the termination was during the period of probation however the order was stigmatic as per alleged misconduct and in the nature of alleged malpractice in securing his appointment as an Assistant Sub Inspector with the CISF. It is an admitted position before us that the respondent neither issued any notice to show cause nor conducted any form of disciplinary inquiry. The petitioners have stated that they were issued notice that they had indulged in malpractice without any details being furnished to them. The action of the respondent is clearly in violation of principles of natural justice.

4. The petitioners have also contended that he had preferred departmental appeal on 18.2.2013 under Section 9 of the CISF Act against the said termination. An oral submission is made before us to the effect that inasmuch as the appellate orders were passed during the pendency of the writ petitions, a substantive challenge thereto could not be laid in the main writ petitions.

5. The petitioners submit that the appellate orders dated 29.4.2013 in WP(C) Nos.2511/13 & 2434/13 and 30.4.2013 in WP(C) Nos.2439/2013, 2413/13 & 2514/13 are not sustainable for the same reasons that the order of termination dated 9th February, 2013 has to be held as being violative of principles of natural justice as well as law.

6. The petitioners have placed reliance on an order dated 20 th March, 2013 passed in the Writ Petition (Civil) No.1756/2013 titled as Yogender Singh vs. Union of India and Ors. by this court who was identically placed as the petitioners

in the order dated 9th February, 2013 terminating their services had been passed in similar circumstances as of the petitioner in WP(C) No.1756/2013.

7. Ms. Richa Kapoor, learned Central Governments Standing Counsel has handed over a communication dated 28th May, 2013 received by the Assistant Inspector General, Law and Regulations informing her that the ratio of the judgment dated 20th March, 2013 in Yogender Singh (supra) squarely applies to these cases which deserve to be disposed of on identical terms. Our attention is drawn to the appellate orders dated 29th April, 8. 2013 and 30th April, 2013 which have been placed on record. We have heard counsel for the parties on illegality and the validity of these orders as well. For all the foregoing reasons we direct as follows: i) We hereby hold that the impugned order dated 9 th February, 2013 as well as the appellate orders dated 29th April, 2013 and 30th April, 2013 are contrary to law and violative of principles of natural justice and therefore hereby set aside and quashed. ii) The respondents shall pass consequential orders permitting the petitioners to continue their training within a period of 4 weeks from today.

9. It is however made clear that respondents shall be free to take suitable action, if they so find, following the procedure which is in accordance with law.

10. These writ petitions are allowed in the above terms.

11. Dasti. GITA MITTAL, J DEEPA SHARMA, J MAY 30.2013 ak

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