

Harananda and ors Vs. Union of India and ors

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Court : Delhi

Decided On : Dec-04-2012

Judge : Pradeep Nandrajog

Appellant : Harananda and ors

Respondent : Union of India and ors

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment delivered on: December 04, 2012 + W.P.(C) No.6314/2012 HARANANDA AND ORS Represented by: Petitioners Mr.Rakesh Tiku, Sr.Advocate instructed by Mr.S.S.Pandey, Advocate Versus UNION OF INDIA AND ORS Respondents Represented by: Mr.S.R.Krishna, Advocate for R-1, 4 to 6. Mr.Amrit Pal Singh, Advocate with Ms.Gurjinder Kaur, Advocate for R-2. Mr.Naresh Kaushik, Advocate for R-3. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MR. JUSTICE MANMOHAN SINGH PRADEEP NANDRAJOG, J.

(Oral) 1. On October 3, 2012, counsel had appeared for the respondents and had accepted notice. Four weeks time was granted to file a counter affidavit and four weeks time was granted to file a rejoinder. Matter was renotified for today.

2. Counter affidavit has not been filed.

3. However, keeping in view the averments made in the writ petition and the documents filed, all counsel agree that the matter can be disposed of issuing

necessary directions to the respondents.

4. The matter concerns Railway Protection Force, where officer level personnel are inducted through a Civil Services Examination conducted by UPSC (respondent No.3).

5. The officers of the Railway Protection Force had been raising an issue pertaining to them being treated as officers of an Organized Group-A Cadre.

6. Respondent No.2 i.e. the Ministry of Personnel, Public Grievances and Pension (Government of India) looked into the grievance and took a conscious decision that the recommendations of the Ministry of Railways made in the year 2001 to constitute Railway Protection Force as an Organized Group A Central Service merited approval resulting in an Office Memorandum dated November 20, 2003 being issued, which reads as under: OFFICE MEMORANDUM Subject :- Constitution of Railway Protection Force as an Organized Service. The undersigned is directed to refer to the Ministry of Railways OM No. 96/E(GR)/16/I dated 8.5.2003 on the above noted subject and to say that this Department agrees, in principle, to the proposed constitution of the Railway Protection Force as an organized Group A Central Service.

2. The proposal will have to be placed before the Cadre Review Committee for its approval just like a normal cadre review proposal. Ministry of Railways are requested to send a detailed proposal for the purpose to this Department for further processing.

3. This has the approval of MOS (PP).

7. Suffice would it be to state that DOPT accorded approval for constitution of the Railway Protection Force as an Organised Group A Central Service and the matter had thereafter to proceed ahead by looking at the cadre structure with the object to find out whether any cadre review was required keeping in view the cadre structure of Organized Group A Central Service.

8. The Ministry of Railways looked into the matter and prepared the draft service rules keeping in view the cadre structure required for Organized Group A Central

Service and way back on March 1, 2005 sent the necessary grade wise cadre structure as also the draft service rules to DOPT and regretfully we find that for over seven years the matter has been put in a slumber by DOPT.

9. Learned counsel for DOPT states that inter departmental communications and notes are being exchanged.

10. Suffice would it be to state that life keeps on moving and does not stagnant. Officers who have joined service in Railway Protection Force would continue to retire on attaining the age of superannuation and God knows how many of them have superannuated in the last seven years.

11. It is unfortunate that an in principle decision which was taken way back in the year 2003 and found a manifestation in the Office Memorandum dated November 20, 2003 has not reached its terminal destination inspite of nine years having gone by. Nine years is too long period to keep on exchanging notes.

12. The task at hand is simple. The in principle decision taken to constitute Railway Protection Force as an Organized Group A Central Service simply requires a cadre structure of similar Group A Services to be kept in mind as also service rules of the said organization and put in place the cadre structure and service rules for Railway Protection Force and for which we would highlight that way back on March 1, 2005, the necessary grade wise cadre structure as also the draft service rules were prepared by the Ministry of Railways, meaning thereby, the launching pad has already been prepared.

13. The position which therefore emerges is that an in principle decision exists with a consent of all stakeholders that Railway Protection Force has to be constituted as an Organized Group A Central Civil Service.

14. If this be so, and noting that the matter has been languishing for over nine years, we dispose of the writ petition issuing a mandamus that within the next six months the necessary cadre structure of Railway Protection Force as also the service rules would be finalized with reference to Railway Protection Force being an Organized Group A Central Civil Service.

15. Since the documents filed would reveal to us that three bodies have to interact i.e. UPSC, DOPT and Ministry of Railways, we direct that the Cabinet Secretary would nominate a Nodal Officer to co-ordinate within the 3 bodies; and for his guidance we may indicate that the Nodal Officer should be the senior most Secretary in either of the two Ministries or UPSC. The said Officer designated would function as the Nodal Officer to inter se coordinate the working of the two ministries and UPSC and it would be his duty to ensure that the mandamus is complied within the next six months. We make it clear that over nine years have elapsed and if within six months supine indifference is shown towards the mandamus issued, the same would be viewed as constituting an act of contempt of this Court.

16. The petition stands disposed of.

17. Dasti to learned counsel for the parties. C.M. No.16870/2012 Dismissed as infructuous. (PRADEEP NANDRAJOG) JUDGE (MANMOHAN SINGH) JUDGE
DECEMBER 04 2012/jk

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