



2025:DHC:715-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 06.02.2025

+ W.P.(C) 538/2025, CM APPL. 2470/2025, CM APPL.
7229/2025

SUNDER SINGH

.....Petitioner

Through: Ms. Nisha Dhaka, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Kshitij Chhabra, SPC with
Mr. Yash Chowksi, Adv. and SI
Shrabanta Sarkar, SSB.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, challenging the Order dated 22.07.2024 passed by the respondents whereby the offer of appointment to the post of Constable (Driver) issued to the petitioner *vide* memorandum dated 25.11.2023, has been cancelled by the respondents stating as under:-

“3. As per existing Government Instructions, an offer of appointment issued would lapse automatically after expiry of six months from the date of issue of the original offer of appointment. Since, the offer of appointment issued to you



completed more than six months from the date of issue of the original offer of appointment.”

2. The learned counsel for the petitioner submits that the mother of the petitioner had fallen ill and was undergoing various tests. She was finally detected as being HIV-1 positive on 06.12.2023. It is because of this reason that the petitioner could not join the service and instead requested for an extension of period to join the same. The petitioner also became aware of a First Information Report (“FIR”) bearing No. 168/2022 under Section 147, 332 and 353 IPC at Police Station Chandpur, Bijnor, where he had been falsely added as an accused. He had to obtain anticipatory bail in the same.

3. The learned counsel for the petitioner submits that by the Memorandums dated 18.01.2024, 23.02.2024, and 03.04.2024, the respondents extended the period for the petitioner to join the service. By the Memorandum dated 07.05.2024, his request for further extension was denied and he was directed to report before 15.05.2024. He was also advised that in case he does not join on or before 15.05.2024, the offer of appointment would lapse automatically on 22.05.2024.

4. It is the case of the petitioner that the petitioner reported at 31st Bn., Sashatra Seema Bal (“SSB”), Gossaigaon, Assam on 19.05.2024, however, was not allowed to join the duty and instead directed to report at the SSB (Headquarter), R. K. Puram. He travelled to Delhi and reported there, however, was not allowed to join and instead the Impugned Order was issued stating that for his failure to join the



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service within six months of offer of appointment, the offer automatically has lapsed.

5. On 16.01.2025, we had directed the petitioner to file on record the documents showing that he had reported at 31st Bn., Assam on 19.05.2024.

6. The learned counsel for the petitioner submits that these documents have been filed, however, only day before yesterday. These are not on record.

7. In spite of the documents filed by the petitioner not being on record, we have proceeded to hear the present petitioner as the learned counsel for the respondents, who appears on advance notice of this petition, submits that he has taken instructions and has been informed that the petitioner did report for duty at 31st Bn, Assam on 19.05.2024, as claimed. He submits that, however, as the petitioner had been called upon to join the office on or before 15.05.2024, he was not allowed to join and was instead directed to report to the HQs.

8. Given the above factual background of the case, it is evident that the respondents had acceded to the request of the petitioner and allowed him an extension of time to join the service till 15.05.2024. By the Memorandum dated 07.05.2024, he was also informed that in case, he fails to join the service till 15.05.2024, the offer of appointment shall automatically lapse on 22.05.2024. The petitioner, who is a resident of Uttar Pradesh, travelled to Assam to join his duties albeit reached there only four days later than 15.05.2024, by which he was to join.



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9. The Impugned cancellation of appointment is not on the ground that he did not report for duty by 15.05.2024, but on the ground that he had not joined the duty within six months of the date of offer of appointment. As the petitioner admittedly had reported for duty within the period of six months, the Impugned Memorandum cannot be sustained.

10. Accordingly, the Impugned Memorandum dated 22.07.2024 is set aside. The respondents shall process the further steps pursuant to the offer of appointment made to the petitioner, within a period of four weeks from today. However, the petitioner shall not be entitled to any retrospective seniority or back wages and shall be deemed to join the service on the date that he actually joins.

11. The effect of the registration of the FIR against the petitioner may also be considered by the respondents while proceeding further with the implementation of the present Order and considering the case of the petitioner for appointment to the service.

12. The petition, along with pending applications, is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 6, 2025/ss/sk/IK

Click here to check corrigendum, if any