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

Date of decision: 08.07.2025

+ W.P.(C) 982/2019

SURENDER KUMAR

.....Petitioner

Through: Mr. S. N. Sharma and Mr. Amit
Pal, Advs. along with petitioner
in person.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Dr. S. S. Hooda and Ms.
Rashmi Rawat, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 15.11.2018 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application No. 1386/2018 (hereinafter referred to as, 'OA'), titled *Surender Kumar v. Union of India and Ors.*, and also the Order dated 11.01.2018 issued by the respondent no. 4.

2. *Vide* Impugned Order dated 11.01.2018, the respondent no. 4 cancelled the candidature of the petitioner for appointment as auditor through Combined Graduate Level Examination - 2012 (hereinafter referred to as, 'CGLE') on account of his alleged lapse of not joining the said post in spite of being so directed *vide* Letter dated 22.12.2016.



Vide the Impugned Order dated 15.11.2018, the learned Tribunal dismissed the challenge thereto.

3. To give a brief background of the facts in the which the present petition arises, the respondents issued the CGLE-2012 for various posts on 24.03.2012. The petitioner applied for the post of Auditor in the OBC, ESM Category. Having cleared the stages of examination, he was issued an offer of appointment on 21.11.2013, to which he sent a letter of acceptance dated 15.11.2013. The respondent claimed that the same was not received by them, however, the petitioner produced the delivery track record which showed that the same had been delivered to the respondent on 20.12.2013.

4. Thereafter, on 22.12.2016, the respondent no. 4 issued a provisional offer of appointment to the petitioner. Some of the terms of same are very relevant to the issues raised in the present petition, and are, therefore, reproduced herein under :

“12) His appointment to the post of Auditor will be subject to his being found medically fit in accordance with the rules on the subject. On acceptance of the offer of appointment, necessary arrangement for his medical examination in Government Hospital will be made and on receipt of the certificate of fitness from the Appropriate Medical Authority (Civil Surgeon/ District Medical Officer or a Medical Officer of the equivalent status), he will be required to report to the undersigned for joining.

xxx

19) If he is willing to accept the provisional offer of appointment on above mentioned terms and conditions, he should communicate his acceptance in the enclosed form in Annexure- 'A' at once to the undersigned. In case he does not join this office within one



month from the date of issue of this provisional offer of appointment the offer will be treated as a withdrawn.

20) Under the normal circumstances, no request for extension to join the post of Auditor will be entertained. It is, therefore, advisable not to enter into any unnecessary correspondence in this regard.

(If he is willing to accept this provisional offer of appointment, he should immediately contact with the undersigned who will arrange for his medical examination. If he is sound medically fit, he shall has to produce all original certificates in support of educational qualification, SC/ ST/ OBC, age etc., for verification. If he had already undergone medical examination at the time of his initial appointment under the Central/ State Government and intends to join the post of Auditor after giving technical resignation, need not undergo such formalities again, for his appointment as Auditor. However, he will be required to furnish a certificate to this effect from his employer.)”

5. The petitioner communicated his acceptance to the offer of appointment, *vide* letter dated 20.01.2017, and called upon the Competent Authority to allow him to appear for medical examination at Gurgaon. This request of the petitioner was reiterated by the petitioner in his subsequent communications as well. However, by the Impugned Letter dated 11.01.2018, the respondent no. 4 cancelled the offer of appointment to the petitioner on the ground that the petitioner had failed to join the post even after lapse of 8 months from the date of issuance of the revised offer of appointment.

6. Aggrieved thereby, the petitioner approached the learned Tribunal and, as noted hereinabove, the learned Tribunal *vide* its



letter dated 20.01.2017 sought his medical examination to be conducted at Gurgaon. This was in nature of a counter offer, which was never accepted by the respondent and, in any case, cannot be treated as an acceptance of the offer of appointment by the petitioner.

10. He submits that the plea of the petitioner that the petitioner was not to physically report at Srinagar, cannot also be accepted as even in the earlier round of offer of appointment in 2014, *vide* a letter dated 01.09.2014, he had been directed to report to the office at Srinagar to complete all the formalities. He submits that the petitioner was, therefore, well aware that he has to physically report at Srinagar for the offer of appointment to fructify.

11. He further submits that a harmonious reading of the letter dated 01.09.2014 and paragraph 19 and 20 of the offer of appointment letter dated 22.12.2016, clearly indicate that the petitioner had to report physically at Srinagar. Having not done so, he urges that the candidature of the petitioner was rightly rejected and his OA was rightly dismissed by the learned Tribunal.

12. We have considered the submissions made by the learned counsels for the parties.

13. Paragraph 12 of the revised offer of appointment dated 22.12.2016 states that on acceptance of the offer of appointment “*necessary arrangement for his medical examination in government hospital will be made*”. It is evident from the letter dated 20.01.2017, which the petitioner sent to the respondent no.4, that he accepted the



offer of appointment and also requested that his medical examination be conducted at Gurgoan. If the respondent was not willing to conduct the medical examination of the petitioner at Gurgoan and was to insist, on the medical examination to be conducted only at Srinagar, the respondent no. 4 should have informed the petitioner accordingly. Instead, the respondent no. 4 kept quiet and did not respond to his letters. In fact, the subsequent communications of the petitioner, of which note has been taken hereinabove, remained unanswered by the respondent till the Impugned Order dated 11.01.2018.

14. As far as the plea of the learned counsel for the respondent that the petitioner was to physically report at Srinagar, a holistic reading of paragraph 12, 19, 20 and as also the note appended thereafter, clearly shows that the petitioner is to report for duty once he is being found fit for the same in the medical examination. That stage never occurred, as the petitioner was not informed of the schedule for his medical examination by the respondent at any stage, for which it was the respondent, who was to make the necessary arrangement. Accordingly, the petitioner cannot be blamed for not reporting for duty within one month of the offer of appointment, as that stage never arose without the medical examination of the petitioner.

15. In view of the above, the Impugned Order dated 11.01.2018 issued by the respondent no. 4 as well as the Impugned Order dated 15.11.2018 passed by the learned Tribunal cannot be sustained and the same are, accordingly, set aside.



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16. Coming to the relief that can now be granted to the petitioner given the passage of time since the issuance of offer of appointment, we mould the relief by directing the respondents to have the petitioner medically examined in terms of the offer of appointment dated 22.12.2016 within a period of 8 weeks from today. The respondent shall inform the petitioner of the date and place of the medical examination at least two weeks in advance to the date scheduled for his medical examination.

17. In case the petitioner is found medically fit for the post, he should be allowed to join the same within a further period of four weeks from the date of his medical examination.

18. As the petitioner would not have worked in the interregnum, he shall not be entitled to any pay or allowances for the said period. The benefit for the said period, however, shall notionally be extended to the petitioner for other pecuniary benefits including of pension.

19. The petition is, accordingly, disposed of in the aforesaid terms.

20. There shall be no order as to costs.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 8, 2025

p/bsn/kz/ik

Click here to check corrigendum, if any