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

+ **W.P.(C) 7214/2020**

**RAVI KUMAR**

..... Petitioner

Through: Mr. Abdul Azeem Kalebudde, Adv.

Versus

**UNION OF INDIA & ORS.**

..... Respondents

Through: Mr. K.V. Sreemithun, Adv. for R-1&2.

Mr. Naresh Kaushik, Adv. for UPSC.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MS. JUSTICE ASHA MENON**

**ORDER**

% **21.10.2020**

**[VIA VIDEO CONFERENCING]**

1. The counsel for the petitioner, in pursuance to the earlier order dated 29<sup>th</sup> September, 2020 contends that the case of the petitioner is different from that of the petitioner in ***Hemant Kumar Vs. Union of India*** 2020 SCC OnLine Del 696. It is stated that while in ***Hemant Kumar*** supra, the petitioner had himself applied for permission to join along with the next batch, the petitioner herein only applied for extension and it was the respondents Central Industrial Security Force (CISF) who asked him to join along with the next batch.

2. Similarly, it is also informed that in ***Hemant Kumar*** supra, the petitioner was informed that he will be placed at the bottom of the next batch but the petitioner herein was only referred to the Office Memorandum (OM) dated 6<sup>th</sup> June, 1978, Annexure P-19 to the petition. It is argued that as per OM dated 6<sup>th</sup> June, 1978 aforesaid, the petitioner should retain his seniority in his batch because the appointment of the petitioner did not lapse.



3. The counsel for the respondents No.1&2 CISF has drawn attention to Annexure P-6 to the petition, being letter dated 17/18<sup>th</sup> August, 2011 whereby the petitioner was directed to report by 2<sup>nd</sup>/3<sup>rd</sup> September, 2011 for basic training with effect from 5<sup>th</sup> September, 2011 and informed that if he did not report by 2<sup>nd</sup> or 3<sup>rd</sup> September, 2011, the offer of appointment issued to the petitioner will automatically stand lapsed. It is thus argued that thus vide letter dated 9<sup>th</sup> April, 2010, Annexure P-5 to the petition, when the petitioner was allowed to join along with the next batch, it was a revival of appointment within the meaning of OM dated 6<sup>th</sup> June, 1978 aforesaid.

4. The OM dated 6<sup>th</sup> June, 1978 provides for extension of time for joining, not exceeding nine months. However vide OM dated 9<sup>th</sup> August, 1995, Annexure P-20 to the petition, the said period of nine months was reduced to six months. The petitioner sought extension by six to seven months and thus petitioner cannot fall in Clause (ii) of Annexure P-19 and therefore will not be entitled to have his seniority fixed without any depression of seniority.

5. The next question is, whether the seniority of the petitioner should be at the bottom of his batch or at the bottom of the next batch. Clause (v) of OM dated 6<sup>th</sup> June, 1978 provides that if the offer of appointment, after lapsing, is revived, the seniority of the candidate would be below those who have already joined within the prescribed period of six months i.e. at the bottom of the original batch, provided the joining is “before” the candidates of the next selection examination join and if “after” the joining of the next batch, then at the bottom of the next batch.

6. We have enquired from the counsel for the respondents, whether the date on which the petitioner joined the training with the next batch, was after



any of the candidates of the next batch had joined.

7. The counsel for the respondents no.1&2 CISF seeks time to obtain instructions.
8. Instructions supported by documents and / or counter affidavit be filed within four weeks.
9. Rejoinder, if any, be filed before the next date.
10. The counsels to, before the next date also file the judgments and / or any other material / documents sought to be relied upon by them.
11. The counsels, including of the respondent no.3 Union Public Service Commission (UPSC), to also obtain instructions whether the offer of appointment of the petitioner was treated as lapsed or not and whether before revival / extension being granted to the petitioner, there was any consultation with the respondent no.3 UPSC.
12. List on 4<sup>th</sup> December, 2020.

**RAJIV SAHAI ENDLAW, J**

**ASHA MENON, J**

**OCTOBER 21, 2020**

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