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

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+ **W.P.(C) No.8998/2011 & CM Nos.20278/2011 & 5932/2012**

Date of decision: 28th September, 2012

SUDAM LAL GUPTA

..... PETITIONER

Through Mr. Arvind Nayar, Adv. with
Mr. Zeyaul Haque, Adv.

Versus

UOI AND ORS

..... RESPONDENTS

Through Mr. Ankur Chhiber, Adv. for R-1 &
2.
Mr. Anip Sachthey, Adv. with
Mr. Mohit Paul, Adv. & Ms. Shagun
Matta, Adv. for R-3 & 4.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE J.R. MIDHA

GITA MITTAL, J (Oral)

W.P.(C) No.8998/2011

1. The writ petitioner was appointed as Airman/NC's (E) with the Indian Air Force, respondent no.1 herein, and has sought issuance of writ of mandamus to respondent nos.1 & 2 herein for enforcement of the benefit available to him under the Air Force Order No.14/2008 dated 19th September, 2008 which permitted Airmen/NCs (E) to apply for Civil Posts/Services under Central Government/State Government and Public Sector Undertakings.

2. The petitioner was appointed on 16th December, 2002 as Airman with the respondent no.1. He was re-mustered on 12th June, 2006 in the Environment Safety Support Assistant trade. On 1st October, 2008, the petitioner was promoted as Corporal. The petitioner claimed that on 15th December, 2009, he had completed seven years of mandatory services in the Air Force computing the same from his original engagement.

3. In the meanwhile, in May, 2011, M/s Coal India Limited advertised for the post of Management Trainee (Finance). On 1st June, 2011, the petitioner approached the respondent no.1 for permission to apply for the said post. He appeared for an interview on 22nd October, 2011 with Coal India Limited-respondent no.3 herein.

4. Before this court, the petitioner places reliance on the 'No Objection Certificate' issued to him by the respondent no.1 on 16th November, 2011 for civil employment. The respondent no.1 also issued a 'No Objection Certificate' dated 16th November, 2011 to the petitioner for appearing in the interview with the Coal India Limited. The petitioner was declared as a successful candidate in the list published on 23rd November, 2011 by the respondent no.3 which consequently sent a letter of appointment to the petitioner.

5. It appears that the petitioner, thereafter, approached the respondent no.3 by a communication dated 20th December, 2011 seeking extension of joining time. Mr. Anip Sachthey, learned counsel

appearing for respondent no.3 has drawn our attention to the communication dated 30th January, 2012 sent by the respondent no.3 in response thereto informing the petitioner that he must join by the 20th February, 2012 failing which the offer of appointment will be treated as cancelled without any further reference.

6. It appears that on account of failure of the respondent nos.1 & 2 to release the petitioner, the petitioner approached this court by way of the present writ petition on 21st December, 2011 for appropriate directions to respondent nos.1 & 2 to discharge him immediately with a further direction to the respondent nos.3 & 4 to allow him to join the respondent no.3 on the post of Management Trainee (Finance) which had been offered to him. The petitioner had also filed an application seeking interim orders to the respondent no.3 with regard to the post which had been offered to him. While issuing notice in the writ petition by the order passed on 18th January 2012, this court had directed the respondent no.3 to keep one post of the Management Trainee (Finance) vacant for the petitioner.

7. The writ petition has remained pending in this court for several dates. Our attention is drawn to the fact that during the pendency of the writ, the respondent nos.1 & 2 have issued an order dated 10th January, 2012 to the effect that the petitioner would be deemed to have been discharged from the Indian Air Force w.e.f. 11th June, 2012. We are informed that pursuant to the issuance of order dated 10th

January, 2012, the petitioner stands discharged from the Indian Air Force.

The factual position which, therefore, emerges is that the petitioner has been discharged from the Air Force and is yet to join the Coal India Limited.

8. The letter dated 30th January, 2012 relied by respondent no.3 has been issued after the passing of the order by this court dated 18th January, 2012 directing the respondent no.3 & 4 to keep one post vacant. No order thereafter has been made modifying or vacating the interim order which continues to operate even on date.

9. In this background and having regard to the above facts which have come on record subsequent to the filing of the writ petition, we are of the view that this matter does not need to detain this court any further.

10. In view of the above, it is directed as follow:-

(i) The petitioner shall be permitted to join the post of Management Training (Finance) with the respondent no.3 in terms of the offer of appointment dated 23rd November, 2011 subject to his fulfillment of all necessary formalities within a period of four weeks from today.

(ii) This writ petition is disposed of in the above terms.


(iii) We make it clear that this order has been passed in the facts and circumstances of the case and shall not be treated as a precedent in any other matter.

CM Nos. 20278/2011 & 5932/2012

11. In view of the orders passed in the writ petition, these applications do not survive for adjudication and are disposed of.

Dasti.


(GITA MITTAL)
JUDGE


(J.R. MIDHA)
JUDGE

SEPTEMBER 28, 2012
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