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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 29<sup>th</sup> July, 2022

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**W.P.(C) 8055/2022**

NITIN BATRA

..... Petitioner

Versus

SSC THROUGH ITS CHAIRMAN AND ORS

...Respondents

**Advocates who appeared in this case:**

For the Petitioner:

Mr. Ankur Chibber, Advocate with Mr. Yogesh Kumar. Mr. Harkesh and Mr. Sharpur Singh, Advocates.

For the Respondent:

Mr. Shrey Sharawat and Mr. Gokul Sharma, Advocates for R-1 to R-6.

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**JUDGMENT**

**SANJEEV SACHDEVA, J (ORAL)**

1. Petitioner impugns order dated 08.04.2022 whereby, the Tribunal has dismissed the Contempt Petition imposing cost of Rs.30,000/- on the petitioner quantified at Rs.5,000/- to be paid to each of the alleged contemnors.

2. Perusal of the impugned order dated 08.04.2022 shows that the contempt petition had been dismissed on the ground that the



respondents have complied with the original direction issued by order dated 08.12.2021, which had directed the representation of the petitioner and to issue him the offer of appointment for posting/joining in any other Departments in terms of his rank and preference, has been complied with.

3. Learned counsel for the petitioner submits that the Tribunal has erred in not appreciating that order dated 02.03.2022 passed in alleged compliance of the original order dated 08.12.2021 does not in effect comply with the said order. He submits that no posting order has been issued in favour of the petitioner and the order dated 02.03.2022 merely refers the dossier to the Ministry of Defence. He submits that by a subsequent order dated 25.03.2022, Ministry of Defence has returned the dossier to SSC for nomination to some other Department.

4. Learned counsel appearing for Respondents No.1 to 6 submits that on 18.05.2022, dossier was once again sent to the Ministry of Defence.

5. Learned counsel for petitioner informs that during the pendency of these proceedings, by order dated 08.07.2022 posting order has been issued appointing the petitioner on the basis of Stenographer (Grade C and D) Examination, 2018. He submits that on 12.07.2022, petitioner has already joined the said post.

6. It is informed by the learned counsel for parties that the



remaining qualified Stenographers had joined in March and April, 2021.

7. Since it is an admitted position that there was no delay on the part of the petitioner in joining or any fault on the part of the petitioner and the error lay on the part of the respondents in not issuing an appointment order qua the petitioner despite the fact that he had qualified the said examination, we direct that the consequential seniority benefits be granted to the petitioner and petitioner be placed immediately above his junior in the order of merit of the said examination.

8. However, since petitioner has not worked on the said post, petitioner shall not be entitled to any pay and allowances for the period that he had not worked and the same would be admissible with effect from the date of his joining. Petitioner shall be entitled to notional fixation of his seniority, pay and allowances in order of his merit.

9. In view of the above, the petition is disposed of. The order imposing costs is also consequentially set aside.

10. Order *dasti*.

**SANJEEV SACHDEVA, J.**

**TUSHAR RAO GEDELA, J.**

**JULY 29, 2022/NA**