Central Administrative Tribunal
Principal Bench, New Delhi

O.A. No. 2143/2020

This the 23rd day of December, 2020

(Through Video Conferencing)

Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)

SI (Exe.) Mahender Kumar Yadav
PIS No. 28980947, Belt No. 2939/D
S/o Sh. Ram Kumar Yadav
R/o E-66, Street No. 17A, Sadh Nagar
Palam Colony, New Delhi 110045.

Presently posted at
District Cyber Crime Cell, Dwarka District
Delhi, Group C, Aged 42 years. ... Applicant

(through Sh. Sourabh Ahuja, Advocate)

Versus

GNCT of Delhi through
1. Commissioner of Police (Delhi Police)
Police Head Quarters, IP Estate
MSO Building, New Delhi.

2. Deputy Commissioner of Police
(Establishment), PHQ, IP Estate
MSO Building, New Delhi. ... Respondents

(through Ms. Esha Mazumdar, Advocate)

ORDER (Oral)

Hon'ble Mr. R.N. Singh, Member (A):

The applicant has filed the present OA to challenge the communication dated 14.09.2020 (Annexure-A/1), whereby the claim of the applicant regarding refixing of his seniority in the rank of a Constable (Exe.) has not been finally decided and it has been communicated to the applicant that in identical matter, an SLP is pending before the Hon'ble Supreme Court and, therefore, it has been decided by the respondents to keep the applicant's representation pending till the decision of the Hon'ble Supreme in the SLP.

2. The learned counsel for applicant submits that the issue involved in the present OA has already been decided by a Full Bench of this Tribunal vide Order/Judgment dated 24.03.2011 in OA No.2047/2006 titled ***Abdul Nazeer Kunju Vs. UOI & Ors.*** (Annexure-A/3) and the said judgment of this Tribunal was upheld by the Hon'ble High Court of Delhi vide Order/Judgment dated 06.05.2013 in WP(C) No.2414/2012 (Annexure-A/4). He further adds that though the judgment of this Tribunal and that of the Hon'ble High Court of Delhi in

Abdul Nazeer Kunju (supra) was challenged by the respondents before the Hon'ble Supreme Court in SLP No.11470/2014, however, the benefit of the judgment in ***Abdul Nazeer Kunju*** (supra) has been extended by the respondents to all the applicants therein the said OA as well as in the batch of OAs, decided by a common Order/Judgment in ***Abdul Nazeer Kunju's*** case. Shri Sourabh Ahuja, learned counsel for applicant further submits that thereafter various persons have preferred representations before the respondents to extend the benefit of judgment of ***Abdul Nazeer Kunju*** (supra) and the respondents have extended the said benefit, of course, provisionally and subject to the outcome of the SLP. In such facts and circumstances, the learned counsel for the applicant argues that the applicant has been discriminated by the respondents, by passing the impugned order dated 14.09.2020.

3. Issue notice. Ms. Esha Mazumdar, learned counsel, who appears for the respondents on advance service, accepts notice. She submits that such communication has been issued particularly, in view of the fact that the aforesaid SLP is likely to be listed before the Hon'ble

Supreme Court shortly and, therefore, in place of looking into the claim of the applicant on merits, it has been decided by the respondents to keep his representations pending till the disposal of the said SLP.

4. We have heard the learned counsel for the parties.

5. In the facts and circumstances, we are of the view that the respondents are required to re-visit their decision dated 14.09.2020.

6. In view of the aforesaid facts and circumstances, without going into the merits of the claim of the applicant and leaving all the legal pleas open to both the parties, the present OA is disposed of, with a direction to the respondents to consider the applicant's pending representation and if the applicant is similarly placed as the applicants in ***Abdul Nazeer Kunju*** (supra), the respondents shall consider and dispose of the representation of the applicant, as has been done in the case of ***Abdul Nazeer Kunju*** (supra), by passing a reasoned and speaking order, as expeditiously as

possible, and in any case within six weeks from the date of receipt of a copy of this order.

7. The OA is disposed of in the aforesaid terms. No costs.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

Dkm/ravi/ns