

(2013) 07 DEL CK 0590

Delhi High Court

Case No: Writ Petition (C) No. 5226 of 1993

O.P. Sobe

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision: July 15, 2013

Hon'ble Judges: Valmiki J Mehta, J

Bench: Single Bench

Advocate: Amit Kumar, for the Appellant; Sapna Chauhan, Ms. Kalpana for R-1 and Mr. Paritosh Budhiraja, Vikas and B. Pakhiddey for R-2, for the Respondent

Final Decision: Disposed Off

Judgement

Valmiki J Mehta, J.

The relief claimed in this writ petition is the challenge to the memorandum/show-cause notice dated 21.9.1988, any enquiry proceedings based thereupon and any orders passed by the Departmental Authority thereon. Respondent no. 2/employer has filed counter-affidavit and it is stated that proceedings pursuant to the memorandum/show-cause notice dated 21.9.1988 have been dropped. Respondent no. 2/employer however relies upon a subsequent order of the Disciplinary Authority dated 18.12.1990 which has held that the petitioner deserted from services of the corporation/NPCC w.e.f. 7.3.1990. Respondents have said that after serving many notices since petitioner failed to appear in the second enquiry proceedings newspaper advertisement was issued and thereafter since petitioner did not appear, the order dated 18.12.1990 was passed. I however need not comment one way or the other today on the validity of the order dated 18.12.1990 inasmuch as this order is not in challenge before me in this writ petition.

2. In view of the above, the writ petition is disposed of by observing that there is no need for the petitioner to challenge the suspension order dated 9.9.1988, show-cause notice dated 21.1.1988 and subsequent enquiry proceedings because those proceedings including the suspension order and the show cause notice have

been dropped by the respondent no. 2. Once the suspension order and the subsequent enquiry proceedings are dropped, petitioner will be deemed to be in service till 7.3.1990 and the respondent no. 2 is bound to give all service benefits to the petitioner till 7.3.1990.

3. In view of the above, the writ petition is disposed of with the observation that petitioner will get all service benefits as if he continued to be in service till 7.3.1990. Petitioner claims not to have been paid salary/monetary benefits from 1.6.1988 to 7.3.1990. The amount due to the petitioner in accordance with law from 1.6.1988 to 7.3.1990 be now paid to the petitioner within a period of six weeks from today alongwith the interest at 9% per annum simple from 1.6.1988 till payment. It is further clarified that petitioner is given liberty, of course in accordance with law, to challenge order of the Disciplinary Authority dated 18.12.1990, and which is not the subject matter of challenge in the present writ petition. Parties are left to bear their own costs.