

(2025) 02 DEL CK 1122

In the Delhi High Court

Case No : Writ Petition (C) No. 8292 Of 2007 & Civil Miscellaneous Petition No. 15679 Of 2007

Baljit Singh

APPELLANT

Vs

Managing Director National Seeds Corporation Ltd. & Anr

RESPONDENT

Date of Decision : 14-02-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 02 DEL CK 1122

Hon'ble Judges : Prateek Jalan, J

Bench : Single Bench

Advocate : Aditya Narayan Tripathy, Dr. Kedar Nath Tripathy, Arunima Dwivedi, Amit Dutta, Pinky Pawar, Kritika Sharma

Final Decision : Dismissed

Judgement

Prateek Jalan, J

1. By way of this petition under Article 226 of the Constitution, the petitioner seeks a direction upon the respondent No. 1- National Seeds Corporation Ltd. ["Corporation"] to promote him to the post of Laboratory Assistant.
2. I have heard Mr. Aditya Narayan Tripathy, learned counsel for the petitioner, and Ms. Arunima Dwivedi, learned counsel for the Corporation.
3. The facts, as pleaded in the writ petition, are that the petitioner, who had attained educational qualifications up to 10th Standard, was appointed in the laboratory of the Corporation on daily wages on 02.02.1977. He was appointed as a Laboratory Attendant after interview and selection, and joined the said post on 07.01.1984. The appointment of the petitioner to the post of Laboratory Attendant was admittedly ad hoc.
4. The promotional post from the post of a Laboratory Attendant is that of Laboratory Assistant. The recruitment rules for the post of Laboratory Assistant

were amended by the Corporation, in the meeting of its Board of Directors on 07.08.2007. The amended Rules are reproduced below:

"Recruitment Rules For The Post of Lab. Assistant

(As amended by the Board in their 214th meeting held on 07.08.2007)

1

Name of the post

Lab. Assistant

2

Classification

Class III

3

Scale of pay(IDA)

Rs. 4300-90-6100

4

Whether Selection post or

non-selection post

Non-Selection

5

Age limit for direct

recruitment

Not exceeding 30 years

6.

Educational & other qualification required for direct recruitment

Higher Secondary with Science, preference will be given to

intermediate in Science. Experience in Govt. / Semi Govt. /
Commercial Establishment of

repute, shall be preferred

7

Whether age and educational qualification prescribed for direct
recruits will apply in the case of promotees?

No

8

Period of probation

One year extendable by one more year, if considered necessary

9

Method of recruitment

whether by direct recruitment or by promotion and % age of the vacancies to be filled up by direct recruitment/ promotion method.

75 % by promotion &

25% by direct recruitment

10

In case of recruitment by promotion, grade from which promotion is to be made

From amongst Lab. Attendants having three years experience in the grade

11

If Selection Committee

exists, what is its composition?

To be decided by

CMD/MD on each occasion" Emphasis supplied

5. It is evident from the above that 75% of posts in the cadre of Laboratory Assistants were to be filled by promotion from amongst Laboratory Attendants having three years' experience in that grade. It may also be noted that the prescribed age limit and educational and other qualifications were specifically stated not to apply to promotees.

6. A Departmental Promotional Committee ["DPC"] meeting was held on 10.09.2007 to propose a panel for promotion for two posts of Laboratory Assistants. The DPC proposed the names of one Shri Zile Singh and Shri Dhanpat Singh for promotion. It is this decision that is under challenge in the writ petition.

7. Shri Dhanpat Singh has been arrayed as respondent No. 2 in the writ petition. It is the petitioner's contention that he was junior to the petitioner, having been appointed as a Peon/Class IV employee on ad hoc basis only on 25.05.1983, and

having joined as Laboratory Attendant on 09.01.1984.

8. Prior to filing of the writ petition, the petitioner submitted a representation dated 19.09.2007 to the respondent, which failed to elicit a response.

9. The petitioner's case is predicated on the premise that he was senior to Shri Zile Singh and Shri Dhanpat Singh in the cadre of Laboratory Attendants. It is his contention that he was working in the laboratory of the Corporation since 02.02.1977, whereas, at least as far as Shri Dhanpat Singh is concerned, he joined only on 25.05.1983. Although some argument is sought to be raised as to the position of Shri Zile Singh also, Shri Zile Singh has not been arrayed as party to the writ petition, and no specific allegations with regard to his seniority vis-à-vis the petitioner have been made in the writ petition.

10. It is contended by the Corporation in the counter affidavit, that the fundamental premise of the petitioner's case is incorrect, inasmuch as both Shri Zile Singh and Shri Dhanpat Singh were senior to the petitioner in the cadre of Laboratory Attendants. Reliance is placed upon a seniority list of Laboratory Attendants working at the Head Office of the Corporation as on 01.01.1988, a copy whereof has been annexed to the counter affidavit dated 05.03.2008 as Annexure R-1. It contains the name of seven employees in which Shri Zile Singh, Shri Dhanpat Singh and the petitioner are at No. 2, 3 and 6 respectively.

11. Mr. Tripathy submits that the seniority list itself has been erroneously prepared, as the dates of appointment in the cadre are shown as 25.05.1983 for Shri Zile Singh and Shri Dhanpat Singh, whereas the date of the petitioner's appointment in the cadre is shown as 07.01.1984. His submission is that, as far as the petitioner is concerned, his seniority has been counted only on the date of his ad hoc appointment as Laboratory Attendant, whereas the seniority of the other two employees has been counted from the dates they first joined the Corporation as Class IV employees, which included the period prior to their appointment as Laboratory Attendants.

12. It may be noted at the outset, that the seniority list has never been challenged by the petitioner. The Corporation has also annexed alongwith the counter affidavit, a memorandum dated 16.03.1988, which noted that the seniority list for the post of "Peon/Watchman/Lab Attendant/Packer/Frasher and Safaiwala" working at the Head Office of the Corporation was circulated to all incumbents, and invited objections by 15.04.1988. It is the admitted position that the petitioner did not file any objections to the seniority list.

13. In fact, in the rejoinder affidavit dated 30.09.2008, the petitioner has taken an objection in the following terms:

"4. That in reply to the averments made in para 1 of the preliminary objection, it is respectfully submitted that the alleged seniority list dated 1.1.1988 produced by the Respondent No.1 is nothing but a camouflage. To the best of my

knowledge, such a seniority list was never circulated as alleged or at all. In fact, in an attempt to confuse and mislead this Hon'ble Court, in the said seniority list, the Respondent No.1 has shown the date of joining of the Respondent No.2 as 25.5.1983 and the date of joining of the Petitioner as 7.1.1984. While the question of seniority is for the cadre/post of Laboratory Attendant, the Respondent No.1 is mischievously showing the date of joining of the Respondent No.2 as peon on ad-hoc basis for 6 months; but deliberately not showing the joining of the Petitioner, who was also working as peon similarly as that of Respondent No.2. It is respectfully submitted that in the post of Laboratory Attendant, the Petitioner joined on 7.1.1984, whereas the Respondent joined in the said post on 9.1.1984. A copy of the joining report of the Respondent No.2 is enclosed herewith as ANNEXURE - P/10.

5. That in reply to the contention made in para 2 of the preliminary objection, it is respectfully submitted that the alleged seniority list was never prepared or circulated as alleged or at all. Had it been circulated, it would have definitely come to the notice of the Petitioner, in furtherance to which, he must have put his objection then and there; as in no case he is junior to the Respondent No.2. Further, it is also relevant to submitted here that, recently vide memorandum dated 21.2.2008, the Respondent No.1 circulated a seniority list in the post of Lab. Attendant, wherein the Petitioner was wrongly shown as junior to one Dayanand (serial No.4 in the alleged seniority list dated 1.1.1988). In the said list, the date of joining of Dayanand was shown as 25.5.1983 and the date of joining of the Petitioner as 7.1.1984. Upon an objection made by the Petitioner to the said seniority list, contending inter-alia that the date of joining of Dayanand should have been taken as 10.1.1984, which is the date of his joining as Lab. Attendant; vide order dated 11.4.2008, the Respondent No.1 accepted the said contention and corrected the seniority list by putting the Petitioner above Dayanand. Under the same analogy, it is respectfully submitted that, the Petitioner is definitely above the Respondent No.2 for which, the Petitioner should have given promotion to the post of Lab. Assistant BY giving preference over the Respondent No.2, on the basis of seniority." Emphasis supplied

14. While the petitioner has certainly pleaded that the seniority list was never circulated "to the best of [his] knowledge", such a weak averment is insufficient to displace the clear pleading of the respondent, supported by a copy of the memorandum dated 16.03.1988 itself.

15. Further, even assuming for a moment that the petitioner had no knowledge of the seniority list at the time he filed the writ petition, it was undisputedly brought to his knowledge when the counter affidavit was filed on 27.02.2008. Almost seventeen years have since passed, but the petitioner has neither sought to amend the writ petition to include a challenge to the seniority list, nor sought to implead those above him, whom he wishes to displace. If the petitioner's submission is correct, he would have to be placed at S.No. 1 in the seniority list, displacing not just Shri Dhanpat Singh, who has been impleaded, but four other

officials, who have not.

16. Quite apart from this fatal flaw in the petitioner's argument, it may be observed that the seniority list is based upon the appointment of the respective employees in the cadre. The admitted position is that the petitioner was working with the respondent on daily wages from 1977, and his first appointment in the cadre was as Laboratory Attendant on 07.01.1984. Shri Zile Singh and Shri Dhanpat Singh, on the other hand, were appointed not as daily wagers, but in the cadre as peons on 25.05.1983. The position of "Peon" and "Laboratory Attendant" are both in the same grade, in which three years' service, is the stipulated criterion for promotion to Laboratory Assistant under the Recruitment Rules. There is, thus, no basis for the petitioner's submission that he has been wrongly treated as junior to Shri Zile Singh and Shri Dhanpat Singh.

17. On the basis of the seniority list, which as stated above, has not been challenged, no fault can be found with the promotion of Shri Zile Singh and Shri Dhanpat Singh, who were senior to the petitioner. His principal grievance, that his juniors have been promoted and he has been left behind, is misconceived.

18. Consequently, no merit is found in the writ petition, which is dismissed, but with no order as to costs.