

(2020) 02 DEL CK 0510

In the Delhi High Court

Case No : Civil Writ Petition No. 1760 Of 2020

Jagat Narayan

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Citation : (2020) 02 DEL CK 0510

Hon'ble Judges : G.S.Sistani, J;Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : Meenu Mainee, Vikas Mahajan, Aakash Varma, Jatin Kapur, Naresh Kaushik, Vibhuti Tyagi, Tapasvi

Final Decision : Disposed Of

Judgement

G.S. Sistani, J

CM.APPL 6142/2020(exemption)

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

W.P.(C) 1760/2020

3. The present petition is directed against order dated 06.05.2019 passed by the Central Administrative Tribunal (the "Tribunal").

4. Pursuant to a notification issued in the Employment News of 8-14 January, 2011 for appointment of one Assistant Professor (History) in the Indian

Military Academy, Dehradun, the petitioner herein, made an application under the reserved category of Scheduled Caste (SC). The petitioner was

selected initially on ad-hoc basis on 16.03.2012.

5. An OA bearing No.3757/2011 challenging the advertisement was filed by one

Mahesh Kumar Singh on the ground that since only one post of Assistant Professor (History) was available, the respondents were not justified in reserving it in favour of SC candidates. The present petitioner was also impleaded as one of the respondents.

6. The OA was dismissed, which led to the filing of a writ petition bearing No.W.P(C)7584/2015 before this Court. The writ petition was allowed vide order dated 04.07.2017, holding that the respondents were not justified in reserving the sole post in favour of SC candidates. The advertisement as well as the consequential actions were set-aside and the respondents were directed to hold fresh selection for the post.

7. Both the parties preferred SLPs against order dated 04.07.2017 of this Court, which SLPs were dismissed by orders dated 23.10.2017 and 05.07.2018.

8. Consequent to the judgment of this Court in W.P(C)7584/2015, the appointment of the petitioner herein was terminated with immediate effect. This forced the petitioner to knock at the doors of justice, by filing OA No.4235/2018 before the Tribunal, which stands dismissed by order dated 06.05.2019; which dismissal has led to filing of the present writ petition.

9. Ms. Mainee, learned counsel for the petitioner has submitted that prior to the termination, no show cause notice was issued and no opportunity of hearing was granted to the petitioner.

10. We have heard learned counsel for the parties and have considered their contentions.

11. We are of the view that having regard to the judgment of this Court, whereby the advertisement for the post and all consequential actions were quashed, which judgment has attained finality, issuing a show cause notice to the petitioner would have been a mere formality; and the "useless

formality" theory would come into play. Once the advertisement and actions taken pursuant thereto had been quashed, no purpose would have

been served in issuing a show cause notice to the petitioner. After all, there was nothing for the petitioner to answer, since the advertisement itself had

been quashed for legal fallacies. The petitioner was also unable to provide an answer as to what he would have to say regarding the quashing of the

advertisement itself. Counsel for the petitioner however only urges that it was not the fault of the petitioner. Be that as it may, we find no ground to

entertain the present petition.

12. At this stage, counsel for the petitioner submits that the petitioner was appointed in the year 2012 and has remained in service till 2018; and he has now become overage. Therefore, the petitioner would make a representation to the respondents for creating a supernumerary post to accommodate the petitioner. Alternatively, she submits that if a fresh advertisement is issued, age relaxation should be given to that extent for the period 2012-2018.

13. As prayed, the petitioner is granted liberty to make a representation to the respondents for creating a supernumerary post, which the respondents would decide expeditiously in accordance with law. If however, a fresh advertisement is issued, it is directed that the petitioner be granted relaxation of age for the period between 2012 to 2018 when he worked as Assistant Professor with the respondents.

14. With these directions, the writ petition stands disposed of.