

(2006) 08 DEL CK 0131

In the Delhi High Court

Case No : Writ Petition (C) 879 of 1997

Mahender Singh

APPELLANT

Vs

The Director (A and P), DWS and DU, The Commissioner,
DWS and SDU and The Deputy Commissioner, DWS and SDU

RESPONDENT

Date of Decision : 21-08-2006

Acts Referred:

Citation : (2006) 08 DEL CK 0131

Hon'ble Judges : J.M. Malik, J

Bench : Single Bench

Advocate : Non, for the Appellant; Sadhana Sharma, for the Respondent

Final Decision : Dismissed

Judgement

J.M. Malik, J.—The petitioner was engaged by the respondents on Muster Roll basis for the works of Pump Driver in the year 1983. He was duly selected for the post of Pump Driver (Distribution) against existing vacancy in the year 1984. Vide memorandum No.WSU/AO(D)/E & M/P.D./84-56057 dated 23.10.1984, the petitioner was offered the vacancy of Pump Driver (Distribution). It's relevant portion runs as follows:

Consequent upon his selection for the post of Pump Driver (Distt.) in the Delhi Water Supply and Sewage Disposal undertaking, Sh. Mahinder Singh s/o Sh. Ram Prasad is here by offered a temporary post of Pump Driver in the pay scale of Rs.260-6-290-EB-6-326-8-350 on the terms & conditions printed overleaf.

The petitioner accepted the said offer and till the filing of the present writ petition he has been working with the respondent on the post of Pump Driver. The petitioner is a matriculate and has completed the course of I.T.I.

2. The petitioner made a representation to the respondents in reference to regularization of his services on 13.1.1994. The said representation runs as follows:

Respectfully the applicant states that he is under Executive Engineer (Electrical & Mechanical) muster roll on the post of Pump Driver since Jan, 1983. Applicant has passed matriculation and is having diploma in I.T.I. (Electronics general). On this basis applicant had applied in 1984 on the post of Pump Driver (Permanent). On this basis I was selected but did not receive an appointment letter. During conversation the officer had told that diploma in electronic general is not valid for the post of Pump Driver. Whereas in above said diploma the course of basic electronic is also included. Then also I was not appointed. After this I again applied for the same post. Again the same thing was repeated that I do not have required qualifications for the post of Pump Driver. AO (G) has asked for confirmation letter for the post of labourer and has asked for affidavit on the appointment on above said post labourer. Where I have been working on the post of Pump Driver since last 10 years and I am experienced workman then why I should be appointed on the post of labourer" it is requested to higher officers in reference of my appointment to take reasonable steps and I should be given logical clarification about the hurdles in my appointment. Otherwise on the basis of my experience I should be appointed on the post of Pump Driver.

He received the reply dated 31.5.1995 which runs as follows:

The Ministry of Labour, Directorate General of Employment & Training vide its letter No.DGET-05-01-94/TC, dt. 4.11.94 has informed that certificate in Switch Board Attendant is not at par to that of certificate in Wireman from I.T.I. As such your application for regularization as APD on the basis of above certificate cannot be considered under the Technical Regularization Policy of the Undertaking.

Therefore, if you are interested to be regularized as Beldar, you may submit your willingness/acceptance to the post of Beldar with an affidavit and fill up prescribed proforma enclosed so that your case can accordingly be processed.

3. The petitioner made a representation that he was not having a certificate of Switch Board Attendant infact he was having a certificate in General Electronics Trade. He requested the respondent to consider his case for regularization. The Additional Legal Adviser advised the respondents vide his letter that the petitioner was having a higher qualification and is fit for regularization for the post of Pump Driver. Copy of his letter dated 8.6.1995 runs as follows:

I may draw your attention to Letter No.WSU/AO(G)/E &M/95/3585 dated 31.5.1995 of the Administrative Officer (G) of DWS & DU addressed to Shri Mahinder Singh son of Shri Ram Prasad M/Roll Pump Driver. A copy of the letter is enclosed herewith. It has been stated in the said letter that the certificate in Switch Board Attendant is not at par with that of certificate in Wireman of ITI. On the said ground the application of Shri Mahinder Singh for regularization as APD has been not considered under Technical Regularization Policy of the Undertaking.

The aforesaid position does not appear to be correct as Shri Mahinder Singh possesses National Trade Certificate of two years training in the Trade of Electronic General from I.T.I., Gurgaon. The syllabus of the said training also

includes training in basic electricity. Shri Mahinder Singh is not having any certificate in Switch Board Attendant as reported to in the aforesaid letter dated 31.5.1995, he possesses the third certificate in the trade of Electronic General as stated above. The aforesaid said certificate is of higher training and on the basis of which the employee was duly selected for appointment as Pump Driver vide DWS & DU letter/memorandum No. WSU/AO(D)/E & M/P.D./84-56057 dated 23.10.1984, but he was not appointed to the said post though he was found eligible for the same. Copy of the memorandum dated 23.10.1984 is also enclosed herewith. Shri Mahinder Singh has been working as Pump Driver in the undertaking on Muster Roll basis since 1983. As he possesses the requisite qualification etc. for appointment as Pump Driver his case may kindly be considered for regularization as Pump Driver. I shall be grateful for your personal intervention in the matter as the matter has already been inordinately delayed.

4. Vide their letter dated 24.8.1995, the petitioner was informed that the certificate in the Trade of Electronics (General) is not equivalent to that of wireman/electrician trade from I.T.I. In the absence of such technical qualification, he could not be regularized under the technical regularization policy of the undertaking. The respondent circulated an office order dated 12.6.1996 in reference to regularization of the Muster Roll employees who had been appointed with the respondent department up to 31.12.1984 or before. The instant writ petition was filed with the prayer that respondent No.2 and 3 be directed to regularize the petitioner as on the post of Pump Driver respectively from the date of initial appointment and direct the respondent No.2 and 3 to grant all other consequential benefits also such as pay differences, seniority and due promotion etc.

5. In their counter affidavits, the respondents admitted that the petitioner has been working on Muster Roll since April, 1983. His academic qualification is matriculate and is having a certificate of I.T.I. in Electronics General which is not the requirement as per Recruitment Rules for the post of Pump Driver in Delhi Jal Board. It is pointed out that he has submitted his consent in his own handwriting as well as produced an affidavit to be regularized as Beldar and he has been regularized by the competent authority to the post of Beldar vide O.O. No.360 (District) dated 5.9.2005 as per the regularization policy of Delhi Jal Board. The petitioner is eligible to be regularized as Beldar and is not eligible to be regularized as Pump Driver. Moreover, as per the policy, if a person is regularized, he is regularized at the lowest rung of the said post/cadre. There is no provision to regularize the petitioner to the post of Pump Driver directly.

Para 7 of the affidavit dated 16.3.2004 submitted during the pendency of this writ runs as follows:

7) That I am willing to be regularized on the post of Beldar in Delhi Jal Board under Phased Manner.

6. Order sheet dated 24th March, 2006 reads that the petitioner had been

regularized. Mr. D.S. Yadav, Learned Proxy counsel sought time to obtain instructions. The case was fixed for 17.8.2006. On 17.8.2006, nobody appeared for the petitioner. I heard the learned Counsel for the respondent and reserved the case for judgment.

7. From the facts detailed above, it appears that the claim of the petitioner stands satisfied. Therefore, the present writ petition has become infructuous. It is, Therefore, dismissed as having become infructuous. No order as to costs.