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**(1999) 05 DEL CK 0024**

**In the Delhi High Court**

**Case No : L.P.A. No. 531/98 and C.M. No. 850/99**

Sant Ram and Others

APPELLANT

Vs

Union Public Service Commission and Another

RESPONDENT

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**Date of Decision :** 14-05-1999

**Acts Referred:**

**Citation :** (1999) 4 AD 351 : (1999) 80 DLT 664

**Hon'ble Judges :** Devinder Gupta, Acting C.J.; Kripa Shankar Gupta, J

**Bench :** Division Bench

**Advocate :** Mr. R. K. and MR. Arun Birbal, for the Appellant; Mr. Rajinder Nischal and Mr. N. S. Dalal, vs., for the Respondent

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## Judgement

Devinder Gupta, ACJ

1. Appellants feeling aggrieved against the order passed on 23.11.1998 by learned Single Judge dismissing their write petition (C. W. 6051/98), have filed this appeal.
2. Facts in brief are that 33 posts of Assistant Engineers/Assistant Executive Engineers (Electrical) were advertised on 14.3.1998 by Union Public Service Commission (Respondent No. 1) to be filled in Delhi Vidyut Board by direct recruitment. Closing date of receipt of applications was 2.4.1998. In response to the advertisement, 1031 applications were received. On scrutiny, 815 applicants were considered eligible on the basis of their claim of possessing eligibility requirements mentioned in the advertisement, namely (a) degree in electrical engineering from a recognised university or equivalent ; and (b) two years professional experience preferably in large electric supply undertaking.
3. A decision was taken by respondent No.1 to conduct screening test on 5.12.1998 to be followed by interview, as a procedure for shortlisting candidates for selection to the posts. Feeling aggrieved the appellants approached this court by filing writ petition under Article 226 of the Constitution of India praying for issuance of writ of certiorari or any other writ or direction quashing the decision

of the commission to select the candidates for recruitment to the posts in question and further to direct the commission to continue with the past practice of recruitment through method of interview by shortlisting the candidates on the basis of enhanced professional experience. Learned Single Judge dismissed the writ petition observing that in our constitutional scheme, Union Public Service Commission has got an effective role to play and once selection is entrusted to it, it can adopt its own method of shortlisting the candidates. The method of shortlisting the candidates adopted by the Commissioner is neither irrational, nor arbitrary. The appellants, who had applied for the post and participated in the selection process have no right to say that the Commission must follow a particular method of shortlisting.

4. The case of appellants in appeal is that in 1993. C.W. 5153/93 was filed by some of the employees of Delhi Electric Supply Undertaking (DESU), the predecessor of Delhi Vidyut Board wherein action of DESU in not making direct recruitment to the post of Assistant Engineers was challenged. Though as per the regulations, the number of posts of direct recruitment and promotees are in the ratio of 50% each, DESU did not adhere to this quota and violated the same by diverting the vacancies from direct recruits to promotion quota. Writ petition was disposed of on 24.5.1994. Pursuant to the directions issued in the writ petition. DESU sent requisition for recruitment of 123 vacancies, which were existing till that date in the direct recruitment quota. Out of 123 vacancies 90 were filled up, after consultation with UPSC in the year 1995 and 1996 respectively. Only 33 vacancies remained to be filled. The selection in the year 1995 and 1996 was made through the process of personal interview, as total number of applications received pursuant to the advertisement to the post were large. A method of shortlisting was adopted by enhancing the professional experience. But now while filling up remaining 33 vacancies pursuant to the advertisement issued on 14/20.3.1998. UPSC has resorted to the process of shortlisting candidates not by enhancing the period of experience, but by resorting to the method of holding examination followed by interview. The appellants' case is that the method of shortlisting candidates resorted to by UPSC is arbitrary and irrational and is also contrary to the stand taken by Delhi Vidyut Board in as much as the Board had desired that practice of interviewing candidates be followed, particularly in view of urgency in the situation and problems faced by Delhi Vidyut Board. The Commission was apprised by Delhi Vidyut Board that it was fully conscious of the fact that written examination method was not very efficient since it might lead to selection of candidates having very little practical experience in the field whereas Delhi Vidyut Board required more experienced hands. Therefore, earlier method, which was not irrational, ought to have been adopted.

5. We have heard learned counsel for the parties at length. Delhi Vidyut Board has out and out supported the appellants and in fact, also moved an application praying for preponing the date of hearing. It is the stand of the Board that since the post of Assistant Engineer involves responsibility and requires the use of experience, as such it was decided that the efforts should be made to have

experienced hands, as raw hands are not in a position to render effective services and further the Department has to provide further techniques for giving further experience in the shape of providing training etc. and as such, just to carry forward the said policy, it was decided by the Board to inform the UPSC that the past practice which is based on the sound reasoning and grounds. It is also in the interest of the organisation and as such, it was thought that UPSC should adopt the same procedure/process and for that purpose letters had also been written by the Board. In fact, the interest of the department is to have experienced hands as the post is a sensitive one and that is why experienced persons are required and that is why this policy of having experienced persons is being followed, which is in vogue. The post of Assistant Engineers is sensitive and responsible as the same requires the augmentation of electricity and also the process of distribution and maintenance. For these purposes namely, augmentation, maintenance and distribution, there is need of persons, who in fact, have an experience in that field that is why there have been emphasis for having the persons who are experienced hands. Since this policy was in the interest of the organisation that is why the same was never challenged and has worked very well. The Board being the employer has every right to inform the recruiting agency of its specialised requirements, specialised needs and specialised functions and it is in this process that the letters were written to UPSC.

6. The point for our consideration is that whether there is any arbitrariness or irrationality in that decision taken by the Commission. Needless to add that the instructions contained in the advertisement said:-

a. Where the number of applications received to response to an advertisement is large and it will not be convenient or possible for the Commission to interview all the candidates, the Commission may restrict the number of candidates to a reasonable limit on the basis of either qualifications and experience higher than the minimum prescribed in the advertisement or on the basis of experience higher than the minimum prescribed in the advertisement or on the basis of experience in the relevant field or by holding a screening test.

7. Every candidate, including appellants were made known before the selection process started, pursuant to the advertisement dated 14.3.1998, that the Commission might restrict the number of candidates to a reasonable limit, even by holding a screening test. The Commission in its reply affidavit explained its stand that the earlier method of shortlisting candidates was not found to be satisfactory. Commission felt that in order to keep an organisation abreast of best trained research in the subject and professional management, techniques to infuse fresh blood and up-to-date professional knowledge through some percentage of direct recruitment in various posts, it was necessary to adhere to some other process of shortlisting. The Commission made reference to the earlier practice of increasing the quantum of experience from the minimum prescribed to the post and also to the fact that 50% posts are filled up by promotion, which

obviously will take care of more experienced persons as per the requirement of the Board. As such, for direct recruitment quota, which is 50% while affording an equal opportunity for selection of eligible employee of Delhi Vidyut Board, the method of shortlisting by holding screening test was considered appropriate as it would also enable young and dynamic talent to seek appointment in Delhi Vidyut Board. They would help by bringing new ideas, concepts, skills and latest education inputs. Keeping in view all these factors, it was decided to hold the test.

8. We have given due consideration to the submissions made at the Bar and to the stand taken by the Board, but are of the view that there is no scope for interference in the order passed by learned Single Judge. The respondent Commission was entrusted with the task of making recruitment to the posts and it is not disputed that the same are being filled, in accordance with the Recruitment Rules which lay down essential qualifications for the post. It is also not disputed that all candidates shortlisted do possess essential requisite qualifications, which include two years' professional experience, preferably in large scale electric supply undertaking. 50% vacancies for similar posts are filled up by promotion. The Commission duly took into consideration the past practice which was being followed but this time it took a conscious decision to adopt another method, which was one of the methods prescribed in the advertisement of shortlisting candidates. In its view the earlier method was not very effective and was not conducive for growth of organisation. In these circumstances, when the method adopted by the Commission is one of the prescribed methods in the advertisement, it is understandable that how the appellants, who have participated in the selection process can be permitted to challenge the same to be irrational or arbitrary. There is nothing wrong in the decision making process of the Commission. There are no allegations of malafidness. Consequently, we find no force in the appeal, which is dismissed.