

(2007) 05 DEL CK 0263
In the Delhi High Court
Case No : WP (C) No. 3755 of 2004

Sh. girl Raj Singh

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 09-05-2007

Acts Referred:

Citation : (2007) 140 DLT 267

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : R.P. Luthra, for the Appellant; Mohinder Rupal, for the Respondent

Final Decision : Dismissed

Judgement

Kailash Gambhir, J.—By way of this writ petition the petitioner has sought writ order or direction in the nature of mandamus against the respondent/University of Delhi for recruitment of the petitioner on the post of Office Boy-cum-Attendant and to treat him in the services from his initial date of appointment along with all consequential benefits. The brief facts as set out by the petitioner in the present petition are that he was employed in the examination store, South Delhi Campus of University from 18.03.1989 to 18.05.1989 on the post of Office Boy. The petitioner has also worked in the same capacity after a short gap from 24.05.1989 to 22.06.1990 in General Branch, South Campus of the respondent-University and then again from 18.04.1993 to 17.09.1993 in Central Office of the respondent-University. The petitioner has further stated that in the year 1998 on the basis of his experience he had applied for the regular post of the Attendant and in furtherance to his application, the petitioner was interviewed on 30.07.1998 by the Selection Committee of the respondent-University. The petitioner has stated that despite being a better experienced candidate, few other candidates with lesser experience got selected but candidature of the petitioner was ignored by the respondent-University. The petitioner made various representations and had also filed a civil suit registered as 216/2001 for declaration which was dismissed on the ground of non-maintainability vide order

dated 16.04.2003 passed by the Civil Judge, Delhi. After the said order dated 16.04.2003 the petitioner had approached the Delhi Legal Services Authority and thereafter the petitioner has preferred the present writ petition.

2. I have heard learned Counsel for the parties at considerable length. Mr. R.P. Luthra, counsel for the petitioner has vehemently presented the case of the petitioner. One of the argument raised by the petitioner is that he had continuously worked under the employment of the respondent for a period of more than 240 days, Therefore, he was legally entitled to be considered for appointment in the interview which took place on 30.07.1998. I fail to appreciate this argument of learned Counsel for the petitioner as, in case, the petitioner wanted to lay emphasis on the completion of 240 days service then the appropriate remedy available to him under law was to set the machinery under the Industrial Disputes Act in motion for claiming reinstatement or back wages etc. Admittedly, as per his own case, lastly the petitioner worked with the respondent w.e.f. 18.04.1993 to 17.09.1993 and thereafter, the petitioner did not set up any claim for his regularisation in service or for claiming reinstatement against his removal. The case which has been set up by the petitioner in the present petition is that as to why he was not selected in the interview which took place on 30.07.1998 when he was more hard working and well experienced. The petitioner has not given as on what basis he could say that the other selected candidates were not more meritorious than the petitioner. The petitioner has also not disclosed, as against which candidates his such grievance stands. It also cannot be appreciated as on what basis or material the petitioner can consider himself better in comparison to the other candidates when the Selection Committee had not found him suitable in comparison to other candidates. There are no allegations of malafides against any of the member of the Selection Committee nor there is any challenge to the selection process and the entire claim of the petitioner is based on flimsy ground of claiming a vested right of selection being more meritorious in comparison to others. Vide order dated 20.10.2005 passed by the predecessor Judge of this Court, the petitioner has named one Mr. Janeshwar Dayal to contend that he has lesser merit as compared to the petitioner and that there were certain adverse remarks against Mr. Janeshwar Dayal but still he was selected and appointed but the petitioner was not selected. The respondent-University of Delhi has produced the records to show that the petitioner was not meritorious in comparison to the other candidates and, Therefore, not selected for the said post. The respondent has also produced the records to show that the person by the name of Mr. Janeshwar Dayal never appeared in the interview which was held in the year 1998. Mr. Janeshwar Dayal was the candidate who appeared in the interview held in the month of January, 1994. It would be relevant to reproduce the order dated 20.10.2005 passed by my learned brother, Mr. Justice S. Ravindra Bhat as under:

Learned Counsel for the petitioner submits that the ground on which this writ petition is pressed is that the selected appointee, namely, Shri Janeshwar Dayal has lesser merit as compared to him and that there were certain adverse

remarks. Learned Counsel for the respondent submitted that the petitioner had willingly participated in the process and now cannot question the selection of Shri Janeshwar Dayal in these proceedings in such a collateral manner.

In view of the statements made and having regard to the previous order, the respondent shall produce the original records of the University pertaining to the selection process, on the next date of hearing.

Renotify on 15th February, 2006.

3. Based on the above discussions, I find that the entire approach of the petitioner is fallacious. It is not the case of the petitioner that he was not invited for interview or his candidature was not considered by the Selection Committee. Had it been so, the Court could have come to his rescue of giving such directions to permit his participation in the selection process but that is not the case here. The petitioner in the present petition has sought a direction against the University of Delhi to recruit the petitioner on the post of Office Boy-cum-Attendant and then to treat him in the service from his initial date of appointment along with all consequential benefits. I wonder, how such a direction can be given by this Court even while exercising wide powers under the writ jurisdiction. It is not the case of the petitioner that he was the only meritorious candidate in the list of candidates and his candidature has been deliberately ignored due to some malafides on the part of the Selection Committee or any of its members or that any person has been appointed against any Recruitment Rules. The petitioner's case is totally devoid of any merit, I do not feel inclined to exercise writ jurisdiction in favor of the petitioner. I do not find any merit in the present writ petition and the same is dismissed.