
(2018) 03 DEL CK 0428

In the Delhi High Court

Case No : Civil Writ Petition No. 2367 Of 2018, Civil Miscellaneous No. 9924 Of 2018

Shashi Kumar Shrivastava

APPELLANT

Vs

Directorate Of Education And Anr

RESPONDENT

Date of Decision : 14-03-2018

Acts Referred:

Citation : (2018) 03 DEL CK 0428

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Rajat Aneja, Chandrika Gupta, Nisha Sharma, Vandana Aneja, Satyakam

Final Decision : Disposed Of

Judgement

Sunil Gaur, J

1. In the first round of litigation, petitioner had sought appointment as a Lab Assistant in the year 2010 while claiming that the vacancy for the post of Lab Assistant had arisen in June, 2010. Vide order of 3rd March, 2017 in W.P.(C) No.8710/2010 Shashi Kumar Shrivastava Vs. The Lieutenant Governor of Delhi & Ors., a Coordinate Bench of this Court had issued the following directions:-

Respondent-Director of Education shall consider as to whether the petitioner should be promoted to the post of Lab Assistant with the respondent no.3/school. The respondent no.2/Director of Education will examine all aspects as stated above including as to whether the petitioner fulfills the eligibility criteria for being appointed to the post of Lab Assistant, when the petitioner can be said to have fulfilled the eligibility criteria including of three years working in the feeder cadre post, whether there were posts which were available or had to be available with the respondent no.3/school of Lab Assistants, whether there were vacancies in such posts of Lab Assistants, whether petitioner had the necessary seniority of satisfying the eligibility criteria for being appointed to the post of Lab

Assistant by the respondent no.3/school, etc etc. Respondent no.2/Director of Education or his nominee will decide the issue after hearing the parties, being the petitioner and the respondent No.3/school. Respondent No.2/Director of Education or its nominee will pass a speaking order which will be communicated to the parties. Needful be done by the respondent No.2/Director of Education or its nominee within a period of three months from today.

2. Vide order of 27th July, 2017 (Annexure P-11), respondent-Directorate of Education has directed the Management of respondent-school to constitute a Departmental Promotion Committee for filling up the post of Lab Assistant by way of promotion from all eligible Group 'D' employees of the school. In pursuance to the aforesaid order, respondent-school vide office order of 26th September, 2017 (Annexure P-12) has upon recommendations of the Departmental Promotion Committee promoted petitioner to the post of Lab Assistant with effect from 1st August, 2017 in the pay scale of Rs. 5200 - 20200 + Rs. 2400/-GP.

3. The grievance of petitioner in this petition is that promotion of petitioner ought to relate back to the year 2010 and the grade pay has to be Rs. 2,800/- instead of Rs. 2,400/-. To submit so, petitioner's counsel relies upon orders of 10th October, 2017 (Annexure P-14) and 18th July, 2009 (Annexure P-15). Learned Standing Counsel for respondent-Directorate of Education fairly states that there is no proper compliance of the order of 3rd March, 2017 in the order (Annexure P-11) passed by the respondent-Directorate of Education.

4. Upon hearing and on perusal of impugned order (Annexure P-12) and the material on record, I find that this Court vide order of 3rd March, 2017 (Annexure P-11) had directed respondent-Directorate of Education to clarify as to whether the post of Lab Assistant was available in the respondent-school when petitioner became eligible for being appointed on the post of Lab Assistant. It is also required to be clarified by respondent-Directorate of Education as to whether petitioner was eligible or not, when the vacancy for the promotional post in question came into existence. This factual aspect was required to be spelt out in the impugned order (Annexure P-12). Petitioner's claim of seniority from the date when the post of Lab Assistant fell vacant, needs to be considered.

Petitioner's claim for grade pay of Rs. 2,800/- also needs to be considered by the respondent-Directorate of Education.

5. In the facts and circumstances of this case, respondent-Directorate of Education is called upon to look into the aforesaid aspects and intimate petitioner. Let needful be done within a period of twelve weeks and petitioner be intimated about it, so that petitioner may avail of the remedy as available in law, if need be.

6. With aforesaid directions, this petition and the application are disposed of.

Copy of this order be given dasti to learned counsel for the parties.