

(2001) 02 DEL CK 0103
In the Delhi High Court
Case No : CWP No. 3456 of 1994

Shri Krishan Kumar Avasthi and others	APPELLANT
Vs	
M.C.D	RESPONDENT

Date of Decision : 15-02-2001

Acts Referred:

Citation : (2001) 91 DLT 348 : (2001) 91 FLR 89

Hon'ble Judges : M.S.A. Siddiqui, J;Chander Mohan Nayar, J

Bench : Division Bench

Advocate : Mr. G.D. Gupta, for the Appellant; Ms. Kittoo Bajaj, for the Respondent

Judgement

M.S.A. Siddiqui, J.—By this writ petition under Article 226 of the Constitution of India, the petitioners seek directions to the respondent to amend the Recruitment Regulations for the post of Labour Welfare Superintendent by providing quota for departmental promotees or in the alternative to quash the said recruitment Regulations.

2. In the year 1974, petitioner No.3, Shri Pawan Kumar Mehta and petitioner No.5, Shri Harbhajan Shastri, joined service as Labour Welfare Organisers in Municipal Corporation of Delhi and the remaining petitioners were appointed in 1973. Petitioner No.6 Shri Hardwari Lal joined the service in 1977. They were not considered for any kind of promotion for nearly two decades. The petitioners' main grievance is that they have suffered and stagnated for more than two decades in the same scale from inception due to non-availability of promotional avenues.

3. During pendency of the case, the Recruitment Regulations for the post of Labour Welfare Superintendent, Municipal Corporation of Delhi (for short "the Regulations") were amended providing a ratio of 25 per cent for departmental promotees and 75 per cent for direct recruits. After amendment of the said Regulations, two Labour Welfare Organisers were also promoted to the post of

Labour Welfare Superintendent. Learned counsel for respondent has strenuously urged that in view of the amendments incorporated in the Regulations and also in view of the fact that two Labour Welfare Organisers have already been promoted, the present petition has become infructuous. It is worth-mentioning that the petitioners have not challenged the validity of the Regulations by filing an independent writ petition on the ground that the ratio of 25 per cent for the departmental promotees provided in the said Regulations is so unreasonable as to amount to discrimination. That being so, this Court cannot strike them down or suggest different one. In this context, a reference to the following observations of their Lordships of the Supreme Court in *Govind Dattatray Kelkar and Others Vs. Chief Controller of Imports and Exports and Others*, has become indispensable:-

".....When the recruitment to certain posts is from different sources, what ratio would be adequate and equitable would depend upon the circumstances of each case and the requirements and needs of a particular post. Unless the ratio is so unreasonable as to amount to discrimination, it is not possible for this Court to strike it down or suggest a different ratio. Nothing has been placed before us to show that the ratio of 3:1 is of flagrant and unreasonable as to compel us to interfere with the order of the Government."

4. Bearing in mind the said amendments incorporated in the Regulations and also in view of the fact that two Labour Welfare Organisers have already been promoted, nothing survives in the writ petition. Consequently, the writ petition is dismissed as infructuous.

5. Before we part with the order, we would like to clarify that this order will not stand in the way of consideration of the petitioners' promotion to the post of Labour Welfare Superintendent. At this juncture, it would not be inappropriate to refer to the following observations of the Supreme Court in AIR 1988 1033 (SC) :-

".....Reasonable promotional opportunities should be available in every wing of public service. That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. We would, Therefore, direct the State of Bihar to provide at least two promotional opportunities to the officers of the State Police in the wireless organisation within six months from today by appropriate amendments of Rules.....".

6. With a view to generate efficiency in service and to create a sense of justice, we hope that the competent authority will consider the petitioners for promotion to the post of Labour Welfare Superintendent in the light of the observations made in the case of *Raghunath Prasad Singh* (supra).