

(2013) 07 DEL CK 0228

In the Delhi High Court

Case No : Writ Petition (C) No. 8576 of 2010 and CM No's. 21885 of 2010 and 1798 of 2012

Vivek Yadav

APPELLANT

Vs

Airport Authority of India and Others

RESPONDENT

Date of Decision : 18-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0228

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Yashish Chandra, for the Appellant; Anjana Gosain and Mr. T. Mitra, Advocates for R-1 and 2 Mr. Siddhartha, for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—By this writ petition, petitioner seeks appointment to the post of the Manager, Air Traffic Control (ATC) with the respondent no. 1. Appointment is sought on the ground that petitioner was qualified to apply for the post because he had the qualification prescribed viz a degree of M. Sc. (Physics). I may note that I am toning down the relief claimed in the writ petition because if the relief as prayed for is taken in its literal meaning, the writ petition will have to be dismissed because the relief of cancellation of about at least 70 appointments cannot be sought unless petitioner who approaches this Court also simultaneously seeks appointment, but which is not prayed. Also, the entire line of appointments cannot be cancelled, because admittedly this is not a PIL and at best petitioner could only seek his own appointment to one post out of many in question. The following facts are undisputed, and in fact, form part of the averments of the writ petition:-

(i) On 24.12.2007 an open advertisement was issued for the post of Manager (E-3) (ATC).

(ii) Pursuant to the advertisement, candidates appeared in the written test as

also for the interview, and interviews were conducted between 6.8.2009 to 9.8.2009.

(iii) A merit list of successful candidates was published on 1.12.2009 at the website of the respondent no. 1.

(iv) In January, 2010, a fresh list was also issued.

2. Therefore, the effect is that the entire process of selection and appointment stood concluded by January, 2010. This writ petition however was filed in December, 2010.

3. The case of the petitioner is that petitioner was an internal candidate, who had a right to apply for this post, and he claims that advertisement was not properly drafted so as to defraud persons like the petitioner because there is confusion qua the qualification required. However, the petitioner admits that dozens of other internal candidates by the same very advertisement having the same qualifications applied for the post in question. The relevant qualifications as per the advertisement read as under:-

First class Engineering degree in Electronics/Telecommunications/Radio Engg./ Electrical with specialization in Electronics or M.Sc. degree or its equivalent with Wireless Communications. Electronics, Radio Physics or Radio Engineering as a special subject or equivalent with First Class.

4. In my opinion, I do not think that the above advertisement is confusing and that the petitioner in any manner is deceived because if other internal candidates understood the advertisement in question containing necessary qualifications, there is no reason why petitioner who is similarly placed did not understand the same. I find no merit in the plea of the petitioner that the petitioner has been deceived and the entire selection process ought to be set aside.

5. I have just recently on 15.7.2013, had an occasion to consider one of the aspects which is in issue in the present case of finality of selection process, and I have held the following in the case of Gainilung Panmei Vs. Food Corporation of India & Ors. in W.P. (C) 2537/2012:-

4. Nothing could be pointed out on behalf of the petitioner that petitioner at any point of time gave any document to the respondent No. 1 to show that in any single year from 2005 to 2008 petitioner appeared in five matters in that one year. In fact, even before this Court no document has been filed, although, filing before this Court may be of no use because really the requirement/qualification had to be complied with by giving the necessary documents to the respondent No. 1 at the relevant time during the selection process, and which requirement was not complied with.

5. Once the recruitment process is complete, petitioner cannot unsettle the process by claiming that he met the requisite criteria, and which admittedly was not complied with by giving the requisite document to the respondent No. 1

during the selection process. In fact even in the writ petition, as already stated above, nothing has been filed. A completed recruitment process, whereupon successful candidates have taken charge cannot be unsettled because selected persons have acted to their detriment by giving up other possible opportunities or may be even jobs in some cases.

In my opinion, the writ petition is quite clearly barred by gross delay and laches. Once the entire recruitment process comes to an end, the same cannot be unsettled merely because petitioner has chosen to wake up from Kumbhkaran like sleep. The writ petition is therefore dismissed, leaving parties are left to bear their own costs.