
(2013) 07 DEL CK 0359

In the Delhi High Court

Case No : Writ Petition (C) No. 5129 of 1998

V.K. Jindal

APPELLANT

Vs

Delhi Vidyut Board and Others

RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0359

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : S. Janani and Mr. Sunando Raha, for the Appellant;

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—By this writ petition, the petitioner who was appointed by the respondent no. 1/Delhi Vidyut Board as an Inspector on 5.9.1973, seeks promotion to the post of Superintendant (Technical) w.e.f. 29.8.1989. A reference to the writ petition shows that the petitioner has not stated as to what are the recruitment and promotion rules for being appointed to the post of Superintendant (Technical). Petitioner has also not stated as to how he had the qualification which met the requirements for the post. The Recruitment and Promotion Regulations are stated to be marked as Annexure-1, however the Recruitment and Promotion Regulations are not of the post of Superintendant (Technical) but are of the post of Inspector, and which post, the petitioner already occupies.

2. The respondent no. 1 (now represented by NDPL), in its counter-affidavit therefore has taken up a clear stand that petitioner was considered by DPC held in 1989 for the post of Superintendant (Technical) but since the post in question was not a pure seniority post but a merit-cum-seniority post, petitioner was not promoted because petitioner did not have requisite good ACRs. Once the post is a merit-cum-seniority post, and not an automatic promotion post based only on seniority, petitioner must satisfy the Court as to how he was wrongly overlooked.

Not only the petitioner has in the writ petition not challenged his being found unfit by the DPC which met on 29.6.1989, but also this writ petition itself was filed much later in the year 1998.

3. The upshot of the above discussion is as under:-

(i) The petitioner claims to be appointed to the post of Superintendant (Technical) from the post of Inspector, however no recruitment and promotion rules have been filed by him as to what are the requirements for being appointed to the post of Superintendant (Technical), and the writ petition also does not state as to how the petitioner met those requirements.

(ii) The respondent, in its counter-affidavit in fact stated that the post in question is not an automatic promotion post of seniority but it is a merit-cum-seniority post. The respondent has further averred that the petitioner was called by the DPC which met on 29.6.1989, however, the DPC, on the basis of the ACRs of the petitioner did not find him fit for promotion and accordingly petitioner was not recommended for promotion to the post of Superintendant (Technical).

(iii) Petitioner has not challenged the decision of DPC which met on 29.6.1989 in this writ petition, and which writ petition itself has been filed with considerable delay i.e. in the year 1998 qua a DPC which met on 29.6.1989. The petition in case is barred by delay and laches if the decision of DPC dated 29.6.1989 was to be challenged 9 years later in 1998.

4. In view of the above that petitioner was not considered fit by the DPC which met on 29.6.1989 because of the ACRs of the petitioner, the post being a merit-cum-seniority post, and petitioner not having challenged the decision of the DPC which met on 29.6.1989 which overlooked the petitioner on the ground that he did not have the requisite ACRs, hence, petitioner will therefore have no legal right to be appointed as a Superintendant (Technical) w.e.f. 29.8.1989 or from 31.10.1990. In view of the above, there is no merit in the writ petition, which is accordingly dismissed, leaving parties to bear their own costs.