

*

+

%

ASHOK KUMAR YADAV

..... Appellant

Through: Mr. G.D. Rustagi, Advocate.

versus

DELHI JAL BOARAD

..... Respondent

Through: Mr. R.K. Tiwari, Advocate.

CORAM:

HON'BLE MR. JUSTICE MUKUL MUDGAL

HON'BLE MR. JUSTICE MANMOHAN

1. Whether Reporters of local papers may

be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in the digest?

JUDGMENT

MUKUL MUDGAL, J: (ORAL)

CMA NO. 11660/2006

1. For the reasons stated in the application, the delay in filing the

appeal is condoned.

2. Accordingly, the application stands disposed of.

LPA 1790/2006

1. Having condoned the delay with the consent of the parties the

LPA is taken up for final hearing.

2. This appeal is filed against the order of learned Single Judge

dated 30th September, 2005 in CWP 7110/2003. The prayer in the writ petition was as follows:-

- “(a) quashing the impugned order dated 26.9.2003;*
- (b) directing the respondent to appoint the petitioner on the post of Sewer Cleaning Machine Driver (S.C.M. Driver) as stated in the order dated 3.1.2000 issued by the respondent.*
- (c) directing the respondent to regularise the appointment of the petitioner against the post of S.C.M. Driver considering the fact that the petitioner has been continuing as a muster roll wage earner since 1992 till date and has put in 2064 days from 1996 to 2002 (figures off the year 2003 not furnished by respondent)”*

3. The learned Single Judge has recorded two findings. First that mere figuring in the select list cannot automatically give a right of appointment. In so far as that finding is concerned we are in agreement that the said finding cannot be assailed, accordingly that finding is affirmed.

4. The appellant has, however, also raised a grievance in respect of the other finding of learned Single Judge :-

“.....In the present case the Respondents withdrew the offer and instead decided to give the appointment to those entitled to it as per the rules on the basis of a seniority list maintained by them. This in my view is not arbitrary or in any manner irrational.

8. *In view of the above observations, Petitioner is not entitled to any relief. It is however recorded that the Petitioner's seniority is at Serial No. 831 in the seniority list as on 7.8.2004. Counsel for the Respondents would proceed to make appointments as per said list to the post of Sewer Cleaning Machine Driver. The petition is*

accordingly disposed off in the light of the said observations and statement.”

5. It is not disputed that the said seniority list had never been filed before the learned Single Judge. In fact, the seniority list has only been furnished in this court in appeal.

6. The appellant has several grievances regarding the list of seniority and his placement at serial No. 831 in seniority list including the grievance that unskilled workers like Beldars have been included. Since the seniority list had never been filed before the learned Single Judge, the above extracted finding is set aside. The appeal is consequently partly allowed. It is made clear that appellant will be entitled to challenge his fixation of seniority as per the above seniority list or otherwise in accordance with law.

7. The LPA stands disposed of accordingly.

MUKUL MUDGAL, J

MANMOHAN, J

SEPTEMBER 08, 2008
rb