

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.3550/2008**

% **Date of decision : May 12th, 2008**

Suparas Bhandari Petitioner
Through: Mr.Manish Singhvi, Advocate.

Versus

Union of India Respondent
Through : Mr.P.P. Malhotra, Additional
Solicitor General of India with
Mr.Gaurav Sharma, Advocate.

CORAM :-

* **HON'BLE MR. JUSTICE ANIL KUMAR**

- | | |
|--|-----|
| 1. Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. To be referred to the reporter or not? | NO |
| 3. Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J. (Oral)

*

The petitioner who is the candidate for selection to the post of Chairperson of IRDA seeks quashing of Government Memo dated 4th March, 2008 inviting applications for the post of Chairperson, Insurance Regulatory and Development Authority (IRDA), Hyderabad on deputation/contract basis and for a direction that he be called for interview and de novo interview be conducted so as to ensure comparative merit amongst eligible candidates and to quash the

appointment of Chairperson of IRDA, if the appointments have been made during the pendency of the writ petition.

The petitioner has contended that the Chairperson of the Insurance Regulatory Development Authority is to be appointed by the Central Government from the persons of ability, integrity and standing having knowledge and expertise in life insurance, general insurance, actuarial sciences, finance, economics, law, accountancy, administration or any other discipline.

Relying on Section 4 of IRDA Act, 1999 regarding the composition of the Authority, the petitioner had contended that the Central Government while appointing the Chairperson and the whole-time member was to ensure that at least one person having knowledge or experience in life insurance, general insurance or actuarial sciences was to be called for interview.

The petitioner contended that he applied for consideration for appointment as Chairperson of IRDA and the petitioner has not been invited to appear for the interview and in the circumstances petitioner has contended that he has not been considered and therefore, he seeks quashing of appointment of Chairperson of IRDA.

According to the petitioner, only three persons have been called for interview out of which two belong to Indian Administrative Service and the third person is already a member of IRDA and he does not have any worthwhile experience in the field of insurance prior to joining as member of IRDA.

According to the petitioner, if the person like petitioner is ignored who has the highest position in the National Insurance Company, there would be no representation from insurance industry and no person from insurance sector would be able to become Chairman of IRDA.

This is not disputed by the learned counsel for the petitioner that all the persons who have applied for selection to the post of Chairperson of IRDA are not to be called for interview. If all the persons who have applied for selection to the post of Chairperson are not to be called for interview and only some of the persons who have applied for selection are called for interview, it cannot be interfered that the persons other than those who have been called for interview, in absence of any allegation of malafide against the Selection Committee, have not been considered.

Learned Additional Solicitor General, Mr.Malhotra, who appears on advance notice has contended that nine persons including the

petitioner had applied for selection to the post of Chairperson of IRDA. According to him, Search Committee has been appointed in accordance with Appointments Committee of the Cabinet (ACC)'s Guidelines and the selection procedure is being taken in accordance with Section 4 of IRDA Act, 1999. Learned Additional Solicitor General has produced the record pertaining to the applications received from nine candidates which include Shri Suparas Bhandari, CMD (Retd.), AICIL; Shri B.K. Chattopadhyay, Addl. Comptroller & Auditor General; Shri J.P. Dange, Additional Chief Secretary, Government of Maharashtra; Shri J.Hari Narayan, Retired Chief Secretary, Andhra Pradesh; Shri C.r. Muralidharan, Whole time Member, IRDA; Shri G. Prabhakara, Whole time Member, IRDA; Ms.Gayathri Ramachandran, Special Chief Secretary, Andhra Pradesh; Shri Venkataraman Ramasaamy; CMD, National Insurance and Shri N.R. Rayalu, Deputy Comptroller & Auditor General.

A summary of nine applications has also been produced and perused and from the same it cannot be inferred that not calling the petitioner for interview for the post of Chairman, IRDA, is apparently malafide or is a case of favoritism. It has also been contended that the Search Committee appointed for the post of Chairperson, IRDA, has laid down a criteria for short-listing of the candidates which include the present expertise available with IRDA, the qualification required of the

Chairman as contained in Section 4 of the IRDA Act; career profile of the candidate especially in the recent past; residual service of the candidate in case he is selected as Chairman; the stature of the candidate needed for the job of Chairman, IRDA and the general reputation and information on competence etc. in the knowledge of the Members of the selection committee. According to the learned Additional Solicitor General after taking into consideration all these criteria, three candidates have been called for interview and thus after consideration of the case of the petitioner he has not been called for interview. It is contended that since the petitioner has not been called for interview, it cannot be contended that the petitioner has not been considered pursuant to his application for appointment to the post of Chairperson of IRDA.

In the exercise of jurisdiction under article 226 of the Constitution of India, the High Court does not sit as an appellate authority over the process of selection but it can examine from the point of its limited jurisdiction whether the process of selection was just and fair and was in accordance with the rules. In absence of any allegation of violation of any rules by the selection committee the High Court undertaking judicial review under article 226 of the Constitution of India would be wholly unjustified. Calling three candidates out of nine candidates cannot be presumed to have been done in a mechanical

manner in absence of any allegation favoritism or bias. Merely because three candidates who have been called for interview from Indian administrative service, no such bias or favoritism as has been alleged by the petitioner can be inferred in the present facts and circumstances. There are no specific allegations of bias and favoritism against the members of the selection committee nor the constitution of selection committee has been challenged. The evaluation made by an expert committee is not to be easily interfered with by the Courts which do not have the necessary expertise to undertake the exercise that is necessary for such purpose.

In the circumstances, it cannot be inferred that the petitioner has not been considered or that the petitioner has a right to be called for interview nor this Court is competent to infer and decide that the petitioner is the most suitable candidate for appointment to the post of Chairperson of IRDA and should have been called for the interview.

In the circumstances, the writ petition is without any merit and it is dismissed.

May 12th, 2008
“Dev”

ANIL KUMAR, J.