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

% *Judgment delivered on: 15 May, 2012*

+ WP (C) 15713/2006

SURAG TIR KAMAN SURAJ

..... Petitioner

Through : Mr.Naresh Kaushik, Adv.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through : Ms. Zubeda Begum, Adv. with
Ms. Sana Ansari, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the instant petition, the petitioner has sought *mandamus* to be issued directing the respondent to consider and issue appointment to the petitioner on the vacant post of Junior Engineer (Horticulture) caused on account of termination of services of Shri Than Singh Verma who was illegally appointed, against the post of Junior Engineer (Horticulture) and also sought all consequential benefits flowing from thereof.

2. The petitioner initially joined the office of the respondent as Technical Assistant (Horticulture) on 17th September, 1998 on contract basis on the monthly pay of ` 4,000/- and continued to work on the same post up to 16th March , 2000. On 17th March, 2000, the term of the petitioner was once again extended for a further period of six months by the office of the respondents. However, before the expiry of the said period, the petitioner was promoted on ad-hoc basis with effect from 14th June, 2000. Thus, the

petitioner gained experience of 1 year 8 months and 27 days continuously on the post of Technical Assistant (Horticulture) in the office of the respondent.

3. The respondent office vide its order dated 4th July, 2000, accepted the joining of the petitioner in its office. On 11th August, 2000, another office order issued in respect of the appointment of the petitioner as Junior Engineer (Horticulture) on ad-hoc basis, wherein clearly mentioned that the petitioner had exhausted all the channel of his appointment i.e, medical examination, verification of character and antecedents etc. As such, the petitioner had undergone every channel of his appointment same as a regular employee, but the respondents have arbitrarily appointed the petitioner on ad-hoc basis and extended the period up to 13th December, 2000. Thereafter, time to time, the period of the petitioner was extended and he continued with the services up to 14th May, 2002.

4. Thereafter, the petitioner filed the writ petition before this Court for regularization of his services and the same was disposed of vide judgment dated 30th May, 2002 directing that the application of the petitioner would be considered in accordance with the rules and regulations for appointment of the said post, if not already considered.

5. It is further directed that the intimation of the status of the petitioner would be sent to the respondents within four weeks from the date of the pronouncement of the judgment.

6. On 23rd May, 2006, he applied for some documents in connection with his case under the Right to Information Act, 2001. On 23rd June, 2006,
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the respondents ultimately provided the requisite information to the petitioner.

7. The petitioner noted after gone through the selection process that the Selection Committee had changed the eligibility criteria on short listing the candidates and enhanced the educational qualification and experience of the candidate suits to their requirement.

8. Learned counsel for the petitioner submits that the respondent was not competent to change the eligibility criteria which was the minimum prescribed criteria fixed for the recruitment. Therefore, the selection of the post is arbitrary, mala fide and illegal.

9. In response to the instant petition, respondents no. 1 to 3 filed their response and submitted that they had advertised the post for the Group B & C in the year 1998 and 2001 to meet the shortage of staff. They were engaging employees on temporary/ad-hoc/contract/daily wages as well as by the way of outsourcing. These officials/labourers/workers have been appointed without undergoing the recruitment process as contemplated in the Memorandum of Association and Rules and the recruitment process followed by Delhi Subordinate Selection Services Board (DSSSB).

10. It is further stated the petitioner was appointed in the regular time scale as a stop gap arrangement without following the recruitment process as required by the department and in law.

11. It was felt in the month of May 2000 that with the increased activities in the Institute, the workload of Electrical, Maintenance and Horticulture

Section were increased considerably necessitating the requirement of middle-rank officials at Junior Engineer level. Therefore, in terms of Clause (xiv) of the Memorandum of Association and Rules and Regulations, one post of Junior Engineer (Horticulture) was temporarily created by the Director for a period of two years.

12. The respondent has been informing the petitioner from time to time that the appointment is purely temporary and on ad-hoc basis till the regular incumbent joins the post by selection through Delhi Subordinate Services Selection Board (DSSSB), Govt. of NCT of Delhi, whichever is earlier.

13. It is further informed that whenever the selection is made by the DSSSB, the appointment shall stand automatically terminated. It can be terminated without any notice or without assigning any reasons even before the expiry of the said period.

14. As per the advertisement, the eligibility criteria for Junior Engineer (Horticulture) was described as under:

“JUNIOR ENGINEER (Horticulture): Degree in Agriculture/Horticulture from a recognized University or equivalent with one year experience in the field of Horticulture/Floriculture/ Farm Management or Diploma in Agriculture/Horticulture from a recognized Board/University or Equivalent with 03 years experience in Horticulture/Floriculture/Farm Management.

The prescribed qualifications are the minimum and the mere possession of the same does not entitle the candidates to be called for interview. Where the number of applications received in response to this advertisement is large and it will not be convenient or possible for the institute to interview all the

candidates, the Institute may restrict the number of candidates to a reasonable limit by any or more of the following methods (a)- on the basis of either qualifications and experience higher than the minimum prescribed in the advertisement or (b)- on the basis of experience in the relevant field or (c)- by counting experience before or after the acquisition of essential qualifications or d by holding a screening test.”

15. Vide communication dated 23rd June, 2006, the Selection Committee found that large number of candidates fulfill the prescribed minimum qualifications and experience and are eligible as per their advertisement. It was agreed to shortlist the candidates by fixing the short-listing criteria, accordingly, following criteria has been fixed by the Committee as given below :-

Ph. D or the candidates who have submitted their thesis in the relevant field.

OR

Post Graduate Degree in the relevant field with a minimum five years of experience.

Based on the above criteria the committee recommended that the following candidates who are eligible may be called for interview for NSIT.

S.NO.	NAME OF THE POST	NO. OF APPLICATIONS RECEIVED	NOT ELIGIBLE AS PER CRITERIA	NO.OF ELIGIBLE CANDIDATES	S.NO. OF ELIGIBLE CANDIDATES
1	J.E HORTICULTURE.	71	61	10	11,18,31,34,35,44,45,47,56,68

16. After considering the submissions of learned counsel for the parties, I am of the view that the Committee in fact did not change the criteria, rather short-listed the candidates because of the fact that the maximum number of the candidates were fulfilling the criteria fixed by the respondent. Therefore, for this purpose, the respondent took the decision to get the best candidates out of the same lot. The petitioner had no right to get the appointment on the said post.

17. I find no discrepancy in the order passed by the respondent. Therefore, no merit in the instant writ petition.

18. Accordingly, petition is dismissed.

19. No order as to costs.

SURESH KAIT, J

MAY 15, 2012

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