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THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 13.02.2014

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W.P.(C) 7663/2012 and CM No.19398/2012 (stay)

MANJU JAIN

..... PETITIONER

VERSUS

KIRORI MAL COLLEGE AND ANR RESPONDENTS

ADVOCATES WHO APPEARED IN THIS CASE:

For the Petitioner:	Mr. R.K. Saini, Advocate with petitioner in person
For the Respondents:	Mr. Amit Bansal and Ms. Ritika Nagpal, Advocates for R-1 Mr. Mohinder J.S. Rupal and Ms. Sayantani Sen, Advocates for R-2

CORAM :-

HON'BLE MR JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J

1. By this writ petition, the only relief that the petitioner seeks is, that a direction be issued to the respondents for appointing the petitioner to the post of Administrative Officer (Unreserved), in the background of the fact that, the Selection Committee, at its meeting held on 15.12.2011 had empanelled her at second position in the order of merit, and since, the candidate empanelled at first position has expressed his dis-interest in being recruited, she should be appointed to the said post.

2. The writ petition has been filed in the background of the following broad facts :-

2.1 The petitioner was appointed as a Section Officer (Administration), in respondent no.1 college, in February, 2004.

2.2 On 15.03.2011, the petitioner was given the charge of Administrative Officer; albeit in officiating capacity. To be noted, the post, which is a permanent post, was otherwise, lying vacant.

2.3 In order to fill up the vacant post of the Administrative Officer, a Selection Committee was convened by respondent no.1 college. Forty Six (46) candidates were shortlisted for interview by the Selection Committee. The petitioner, and one, Sh. Rakesh Kumar, were among the 46 candidates, who were interviewed by the Selection Committee. Pursuant to deliberations held by the Selection Committee, at its meeting of 15.12.2011, a panel was drawn up, in order of merit, by the Selection Committee.

2.4 Pertinently, the Selection Committee comprised of the following persons :-

- “1. Sh. Arun Sharma, Chairman’s Nominee, Kirori Mal College Governing Body
2. Sh. Rajesh K. Sinha, Registrar, University of Delhi, Delhi
3. Ms. Alka Sharma, Finance Officer, University of Delhi, Delhi
4. Prof. V.K. Seth, External Expert, Faculty of Management Studies, University of Delhi, Delhi.
5. Dr. (Ms.) Subhra Barua Pavagodhi, SC/ST Observer, University of Delhi, Delhi.
6. Dr. Bhim Sen Singh, Principal..”

2.5 As indicated above, the Selection Committee recommended four (4) names for appointment to the post of Administrative Officer (Unreserved), against the one permanent post though, in order of preference. Sh. Rakesh Kumar was empanelled at first position, while the petitioner was empanelled at second position. There were two other candidates, one Ms. Priyanka Tyagi and a gentleman by the name of Mr. Vipin Kumar Bhargava . The remaining two, were placed at third and fourth positions respectively.

2.6 Notably, Dr. Bhim Sen Singh, the Principal of respondent no.1 college penned a dissenting note in the minutes of the Selection Committee wherein, he indicated that according to him, the petitioner should have been placed, in his assessment, in the first position, in the panel drawn up by the Selection Committee as, she had scored over Mr. Rakesh Kumar.

2.7 Pertinently, the panel was not reconfigured and, therefore, ordinarily, Mr. Rakesh Kumar, should have been recruited to the post of the Administrative Officer.

2.8 However, curiously the offer of appointment to Mr. Rakesh Kumar was made for the first time, after a delay of nearly seven months, by respondent no.1 college vide communication dated 12.07.2012. By this communication, Mr. Rakesh Kumar was given a week's time to join duty; if, the offer was, otherwise acceptable.

2.9 It appears that Mr. Rakesh Kumar vide communication dated 26.07.2012, indicated to the principal of respondent no.1 college that, he was at that point in time working with NABARD at its office

located in Chandigarh, and that, he would require some time to get himself relieved before he could join respondent no.1 college.

2.10 In response to the communication dated 26.07.2012, the principal of respondent no.1 college wrote back vide communication dated 31.07.2012 to Mr. Rakesh Kumar, whereby he was informed that he could join within fifteen days of the issuance of the said communication, failing which, it would be presumed that he was not interested in joining the respondent no.1 college.

2.11 Mr. Rakesh Kumar by a return communication dated 11.08.2012 informed the Principal of respondent no.1 college that he would require at least two months for getting relieved from his job with NABARD, at Chandigarh.

2.12 In the interregnum, the petitioner vide communication dated 21.11.2012, wrote to the Acting Principal of respondent no.1 college that since, Mr. Rakesh Kumar, had not reported for duty till that date, and that, she was given to believe that he had been appointed to the UP Civil Services, she should be appointed as an Administrative Officer, on a regular basis, having been empanelled at second position, by the Selection Committee.

2.13 The petitioner, followed up the request vide communication dated 29.11.2012, though this time it was addressed to the Dean of Colleges, University of Delhi.

2.14 Since, the petitioner, did not get response to her communications dated 21.11.2012 and 29.11.2012, she once again, wrote to the Acting Principal of respondent no.1 college on the subject vide letter dated 03.12.2012.

2.15 It appears that, in the meanwhile, the petitioner's stars, so to say, had taken a favourable turn as Mr. Rakesh Kumar, wrote to the Principal of respondent no.1 college vide a communication dated 10.12.2012 that, he was no longer interested in joining respondent no.1 college, as an Administrative Officer.

2.16 Despite, the aforementioned situation having obtained since, 10.12.2012, respondent no.1 college, refused to appoint the petitioner to the substantive post of Administrative Officer.

3. Mr. Saini, who appears for the petitioner, has argued in line with the facts articulated above. He says that there is no reason now, to deny the claim of the petitioner to the substantive post of Administrative Officer, having regard to the fact that Mr. Rakesh Kumar has articulated his lack of interest, in being recruited to the said post.

4. Mr. Bansal, who appears for respondent no.1 college says that, the delay in issuing the letter to Mr. Rakesh Kumar, resulted in a situation, whereby he finally expressed his lack of interest in being recruited as an Administrative Officer. Mr. Bansal says that, the circumstances seem to suggest that the petitioner was hand-in-glove with the then, Principal Dr. Bhim Sen Singh and, therefore, the entire selection process was vitiated.

4.1 Mr. Bansal, also informs me that, Dr. Bhim Sen Singh was suspended from service around the same time and, an enquiry against him, is currently pending.

4.2 I had put to Mr. Bansal, whether the charges, levelled against Dr. Bhim Sen Singh pertained to this very issue. Mr. Bansal fairly

concedes that charges against Dr. Bhim Sen Singh did not pertain to this episode, and that, charges which are being enquired into, are entirely different. Therefore, the argument of Mr. Bansal in this behalf, cannot be accepted. It is neither the case of respondent no.1 college that the petitioner lacks competence nor is it the stand of respondent no.1 college that she is incapable of performing the duties of an Administrative Officer; a post in which she is even otherwise officiating.

4.3 It is not even the case of respondent no.1 college that there are issues of integrity vis-a-vis the petitioner.

4.4 The fact, that the Principal of the day, for reasons best known to him, delayed issuance of letter of appointment to Mr. Rakesh Kumar cannot be held against the petitioner. In the absence of concrete material, to loosely aver that, the petitioner in some way was hand-in-glove with the Principal of the day, would be doing injustice, to an otherwise competent officer, who went through the selection process and, was empanelled, at second position.

5. Be that as it may, in any case, the subsequent events, which have occurred since the petitioner's empanelment, are clearly indicative of the fact that Mr. Rakesh Kumar, who was empanelled at first position, is not, interested and, therefore, in accordance with the rules of selection, the next in line, which is the petitioner, should be appointed to the substantive post of Administrative Officer. I order accordingly. The prayer made in the writ petition is, thus, allowed.

5.1. I may only observe that the expiration of the validity of the panel cannot come in the way of the petitioner as vide order dated

13.12.2012, passed by my predecessor, this court had directed that the panel, which was drawn up on 15.12.2011, by the Selection Committee, will continue to remain valid, till the disposal of the petition. As a matter of fact, this is not even the objection raised by Mr. Bansal, before me.

5.2 Mr. Bansal, quite logically says that, the appointment to the substantive post of Administrative Officer shall take effect from 14.12.2012. Mr. Saini rests his case with this.

6. With the aforesaid directions in place, the captioned petition and the pending application, are disposed of .

RAJIV SHAKDHER, J

FEBRUARY 13, 2014

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