

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

+ W.P.(C) No. 5958/2002

% **20th May, 2015**

SMT. DIPTI SRIVASTAVA Petitioner

Through None

versus

THE CHAIRMAN CUM MANAGING DIRECTOR,
INDIAN AIRLINES & ORS. Respondents

Through Mr.Rohit K.Aggarwal with Ms.Rekha
Dwivedi, Advocates.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition filed under Article 226 of the Constitution of India, the petitioner, in effect, seeks her appointment and promotion to the post of Deputy Chief Air Hostess (redesignated as Assistant Manager, Inflight Services) by questioning the selection process initiated by the employer/respondent nos. 1 to 5 in terms of the selection process of the year 2002 – notice dated 05.8.2002. The petitioner was not selected by the Selection Committee, and instead respondent nos.6 to 22 were selected and whose appointments are also questioned in this writ petition.

2. In law, a person has only a right to be considered for promotion. As per the extant recruitment and promotion rules of the employer, promotion is not automatic and it is subject to marks to be achieved by the candidate from the maximum marks of 60 marks for annual performance appraisals and 40 marks for the interview. 50 posts were to be filled up by promotion and for these 50 vacancies of promotion quota, a total of 110 candidates appeared for the interview.

3. The petitioner claims that she was senior and better qualified, and therefore she had to be appointed. Petitioner also makes certain allegations against the 17 candidates who have been appointed, and which are stated in para 9 of the grounds of the writ petition.

4. The law with respect to power of the court to interfere with the decision taken by the selection committee is now well settled. The law with respect to entitlement of interference by the court is stated by the Supreme Court in its judgment in the case of *Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others (1990) 1 SCC 305* wherein the Supreme Court has categorically held that courts do not sit as an appellate court over the decisions of the selection committee because it is the selection committee which scrutinizes the relevant merits of the candidates and decides whether a candidate is fit or not to be appointed to a particular post.

It has been further observed in this judgment that a court has no expertise to substitute the expertise of the selection committee in scrutinizing and appointing candidates. Relevant observations in this judgment are contained in para 12 of this judgment and which para 12 reads as under:-

“12. It will thus appear that apart from the fact that the High Court has rolled the cases of the two appointees in one, though their appointments are not assailable on the same grounds, the Court has also found it necessary to sit in appeal over the decision of the Selection Committee and to embark upon deciding the relative merits of the candidates. It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the Candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the Constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction.”

5. The aforesaid proposition of law has been reiterated by the Supreme Court recently in the judgment in the case of ***B.C. Mylarappa Alias Dr. Chikkamylarappa Vs. Dr. R. Venkatasubbaiah and Ors. (2008) 14 SCC 306.***

In fact, the selection committee need not give reasons unless they are bound by the rules and circulars to do so, and this has been held by the Supreme

Court in the judgement in the case of *National Institute of Mental Health and Neuro Sciences Vs. Dr. K. Kalyana Raman and Others 1992 Supp (2)*

SCC 481. The relevant para 7 of this judgment reads as under:-

“7. ... In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has, however, referred to the decision of this Court in *Union of India v. Mohan Lai Capoor: (1973) 2 SCC 836*. That decision proceeded on a statutory requirement. Regulation 5(5) which was considered in that case required the Selection Committee to record its reasons for superseding a senior member in the State Civil service. The decision in *Capoor case (supra)* was rendered on 26 September, 1973. In June, 1977, Regulation 5(5) was amended deleting the requirement of recording reasons for the supersession of senior officers of the State Civil services. The *Capoor case (supra)* cannot, therefore, be construed as an authority for the proposition that there should be reason formulation for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in *R. S. Dass v. Union of India: 1986 Supp SCC 617* in which *Capoor case (supra)* was also distinguished.”

6. The petitioner participated in the selection process, but was not successful. This Court therefore cannot substitute its views for the views of the Selection Committee which has selected the respondent nos. 6 to 22, and has not selected the petitioner. It is noted that for the 50 vacancies, 110 candidates had appeared for the interview and respondent nos. 6 to 22 were selected by the Selection Committee.

7. In view of the above, the present case is a clear case of an unsuccessful candidate wanting to question the selection process, and which is not permissible.

8. Dismissed.

MAY 20, 2015
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VALMIKI J. MEHTA, J.