

\$~43 & 44

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

+ LPA 76/2015

V K JAIN

..... Appellant

Represented by: Mr.Divyakant Lahoti,
Mr.Anish Gupta and Mr.Tanuj
Agarwal, Advocates.

versus

DELHI POLLUTION CONTROL COMMITTEE Respondent

Represented by: Mr.Avnish Ahlawat, Advocate.

AND

+ LPA 77/2015

SANJAY VATS

..... Appellant

Represented by: Mr.Divyakant Lahoti,
Mr.Anish Gupta and Mr.Tanuj
Agarwal, Advocates.

versus

DELHI POLLUTION CONTROL COMMITTEE Respondent

Represented by: Mr.Avnish Ahlawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

%

18.02.2015

CM No.2719/2015 (Condonation of Delay) in LPA No.76/2015

CM No.2727/2015 (Condonation of Delay) in LPA No.77/2015

For the reasons stated in the two applications the delay in filing the
appeals is condoned.

LPA Nos.76/2015 & 77/2015

Page 1 of 3

CM Nos.2720 & 2722 of 2015 (Exemption) in LPA No.76/2015
CM Nos.2728 & 2730 of 2015 (Exemption) in LPA No.77/2015

Allowed subject to all just exceptions.

LPA No.76/2015

LPA No.77/2015

1. Since learned counsel as above appears for the respondent on advance copy of the appeal being served we have heard learned counsel for the parties.
2. Vide impugned order dated July 17, 2014 W.P.(C) No.5491/2012 & W.P.(C) No.5524/2012 have been disposed of by learned Single Judge simply noting that the competent authority gave approval for creating 267 posts at various levels in DPCC on June 10, 2014 and that the Recruitment Rules are in the process of being finalised.
3. The learned Single Judge has held that process of finalising the Recruitment Rules and filling up the posts should be completed as far as possible in six months period.
4. The grievance in the appeals is to the learned Single Judge ignoring the law that for such posts which were sanctioned and were lying vacant, unless a conscious decision is taken not to fill up the vacancies pending amendment to the Recruitment Rules, the existing vacancies have to be filled up by those who were eligible as per the Rules in force of the year of the vacancy.
5. Learned counsel for the respondents states that as a matter of fact the sanctioned posts other than for which approval was granted on June 10, 2014 i.e. 267 additional posts, were filled up as per the Recruitment Rules in force and that said vacancies cannot thus be filled up as per the proposed Recruitment Rules which have yet to be enforced.

6. Learned counsel for the appellants disputes the fact.
7. The learned Single Judge has admittedly not even touched upon this issue.
8. The only thing which needed to be done by the learned Single Judge was to have looked into the pleadings of the parties and determine the question of fact: What were the sanctioned posts which were lying vacant as per the existing recruitment rules? The learned Single Judge was then to decide a further issue if one arose.
9. Under the circumstances both the appeals are allowed. Setting aside the impugned order dated June 10, 2014, W.P.(C) No.5491/2012 & W.P.(C) No.5524/2012 are revived, to be decided keeping in view the contentions noted herein above.
10. Needless to state, learned Single Judge shall look into the pleadings and first decide the question of fact on which the parties are at variance and thereafter the legal issues which may arise therefrom.
11. Both the writ petitions be listed for directions before the learned Single Judge on February 25, 2015.
12. No costs.

CM No.2721/2015 in LPA No.76/2015
CM No.2729/2015 in LPA No.77/2015

Dismissed as infructuous.


PRADEEP NANDRAJOG, J.


PRATIBHA RANI, J.

FEBRUARY 18, 2015/st