

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No. 5837/2014

12th January, 2015

.....Petitioners

Petitioner No. 2 and 3 in person.

VERSUS

..... Respondent

Mr. Gaurav Bannerjee, Sr. Adv. with
Mr. Puneet Juneja, Mr. Sahil Zagotra,
Mr. Sheel Vardhan and Ms. Kopal
Shrivastava, Advs.

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, petitioners impugn the action of respondent/employer in not calling the petitioners for the interviews for the posts of General Managers (GM).

2. The admitted rule which governs the appointment to the post of GM would be the Inter Office Memo dated 12.6.2012 and para 2 thereof, and which is reproduced in para 4 of the writ petition which reads as under:-

“4. That in June 2012 the Respondent Corporation issued an Inter Office Memo dated 12th June 2012 thereby layering the category of E-7A executives and merging the category of E-7A into E-7 category executives. It was further decided by the Respondent Corporation that for the purpose of appointment to the post of E8 Six (6) years or more experience taken together for E-7 & E-7A would be considered. The relevant extract of the inter office memo is reproduced herein below.

“2.0 The following has, now, been decided:

2.1 The grade of E-7A (AGM) shall be gradually phased out. Henceforth, no appointments to E-7A grade shall be effected. Appointment to the post of General Managers will now be from employees in the grade of DGM (E-7)/AGM (E-7A) completing 6 years or more in E-7 & E-7A taken together. Subsequent to phasing out of AGMs, appointment to the post of General Manager (E-8) shall be from Deputy General Manager (E-7) grade.”

A copy of an Inter Office Memo dated 12th June 2012 is attached herewith and marked as **Annexure-2.”**

3. The respondent/employer has interpreted this rule to mean that a person must have experience both in E-7 and E-7A categories for being called for the appointment to the E-8 category of General Manager of the respondent. Respondent-employer states that petitioners only have experience in the category E-7 and have no experience in category E-7A and which is not disputed by the petitioners. Therefore, only the persons in

category E-7A have been called by the employer inasmuch as, vide para 2 of the Inter Office Memo a person for being called for the post of General Manager must have 6 years experience taken together in the posts of E-7 and E-7A. E-7 category is the post of Deputy General Manager (DGM) and E-7A was the post of Assistant General Manager (AGM). E-8 is the post of General Manager (GM).

4. On behalf of the petitioners, it is countered that when the expression '6 years working in the posts of E-7 and E-7A taken together' is used then the same should mean that even if 6 years are completed only in the category E-7, the same is enough for being called for the post of E8 because as per the petitioners 'taken together' means 6 years experience in either or both of the posts E-7 & E-7A.

5. At this stage, it may be stated that originally there was only a category E-7 posts and later on a new category E-7A was created. Respondent, for its administrative reasons however thereafter abolished the category E-7A and retained only the category E-7 and above which category is now directly the E8 category. It was in these circumstances, the need had arisen for issuing of the Inter Office Memo dated 12.6.2012 as to what would be the qualification criteria for appointment to the post of E-8, inasmuch as, there was an interregnum period in which in addition to the

executives in E-7 category there were executives who worked in E-7A category which was created.

6. This Court is only entitled to interfere in exercise of its jurisdiction under Article 226 of the Constitution of India if the interpretation of the relevant Inter Office Memo dated 12.6.2012 by the employer is arbitrary. If out of the two possible interpretations, one possible interpretation is taken by the employer of the Inter Office Memo dated 12.6.2012, this Court has no powers to substitute its interpretation for the opinion and interpretation of the employer as what should be the meaning of the expression “taken together” in the Inter Office Memo dated 12.6.2012. This is all the more so because admittedly none of the petitioners have any experience in E-7A posts and they have experience only in E-7 posts and the persons who have been called for the interview for the post of GM are those in E-7A category i.e those who fell in a category higher than the category of E-7. Thus, for the posts of GM only those candidates have been called who have had higher qualifications than the petitioners who are E-7 category candidates i.e those called for E8 posts interview are those who occupied higher posts than the petitioners. There is therefore nothing illegal or arbitrary or *malafide* in the action of the respondent in interpreting the Inter Office Memo dated 12.6.2012 by requiring experience both for the posts of

E-7 and E-7A taken together for being called for the post of General Manager which is an E8 post.

7 Dismissed.

JANUARY 12, 2015
ib

VALMIKI J. MEHTA, J.