

\$~43

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

+ **W.P.(C) 9246/2015**

%

Date of Judgment : 28.09.2015

MUKESH LATA

..... Petitioner

Through : Mr. V. K. Tandon and Mr. Pardeep
Kumar, Advocates.

versus

UNION PUBLIC SERVICE COMMISSION & ANR.

..... Respondent

Through : Mr. Naresh Kaushik and Ms. Megha
Singh, Advocates for R-1.
Mr. Arun Bhardwaj, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J. (ORAL)

CM APPL. 21173/2015

1. Exemption allowed subject to just exceptions.
2. Application stands disposed of.

W.P.(C) 9246/2015 & CM APPL. 21172/2015 (Stay)

3. The petitioner is aggrieved by the order passed by the Central Administrative Tribunal dated 29.05.2015. We may note that the petitioner had approached the Tribunal seeking a direction to set aside the shortlisting criteria adopted by the Union Public Service Commission for the purpose of selection by way of interviews to the post of 'Director of Employment Exchanges' in the Ministry of Labour and Employment.
4. Mr. Tandon, learned counsel for the petitioner submits that the entire procedure followed by the respondents is arbitrary and not in terms of

the advertisement dated 28.09.2013 – 04.10.2013 and the Recruitment Rules, while learned counsel for the respondents who enters appearance on an advance copy submits that the procedure and process adopted for shortlisting of candidates is strictly as per the advertisement and the Recruitment Rules.

5. It is contended that the petitioner has not been shortlisted as the respondents had placed reliance on the desirable qualification and the benchmark had to be increased on account of large number of candidates.
6. It is also contended that the respondents would be well within their rights to raise the bar and in an identical issue, the Hon'ble Supreme Court of India in the case of ***B. Ramakishenin Alias Balagandhi Vs. Union of India and Others (2008) 1 SCC 362***, more particularly, in Para 20, has held as under :

“20. However, in this case we have noticed that in paragraph 3.1 of the advertisement of the UPSC dated 23.5.1998, the method of short-listing has been given. Hence the UPSC cannot resort to any other method of short-listing other than that which has been prescribed in paragraph 3.1. In the said paragraph of the advertisement, it is mentioned that the Commission may restrict the number of candidates on the basis of either qualifications and experience higher than the minimum prescribed in the advertisement or on the basis of the experience higher than the minimum prescribed in the advertisement or on the basis of experience in the relevant field. In other words, it was open to the UPSC to do short-listing by stating that it will call only those who have Ph.D. degree in Agriculture (although the essential degree was only M.Sc. degree in Agriculture). Similarly, the UPSC could have said that it would only call for

interview those candidates who have, say, five years experience, although the essential requirement was only two years experience. However, experience after getting the M.Sc. degree cannot be said to be higher than the experience before getting the M.Sc degree. Also, the advertisement dated 23.5.1998 does not mention that two years experience must be after getting the M.Sc. degree.”

7. At this stage, Mr. Tandon submits that the petitioner would challenge the final selection if so advised and if such an option is available to him in accordance with law.
8. The writ petition and pending application are dismissed as not pressed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

SEPTEMBER 28, 2015

SC