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

+ W.P.(C) 9856/2015

% *Judgment dated 20th November, 2015*

MANOJ KUMAR YADAV Petitioner
Through : Mr.Anil Singal, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through : Mr.Sanjoy Ghose, ASC, GNCTD and
Ms.Pratishtha Vij, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE V.P. VAISH

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India seeking a direction to set aside the impugned order dated 3.8.2015 passed by Central Administrative Tribunal (hereinafter referred to as the '*Tribunal*'), by which the OA filed by the petitioner was dismissed. The petitioner also seeks a direction to quash the results dated 3.5.2012 and 5.9.2012; the letter dated 10.2.2014; and declare the petitioner eligible for the post of Inspecting Officer.
2. The necessary facts to be noticed for disposal of the present writ petition are that pursuant to an advertisement bearing no.003/09 published by respondents no.3 for filling up ten posts of Inspecting Officer in Labour Department, GNCT of Delhi, the petitioner submitted his application, claiming himself to be eligible. In the preliminary examination, which was qualifying in nature, the petitioner obtained 55 marks. The petitioner

obtained 100 marks in the main examination. On 3.5.2012 respondent no.3 declared the result of selection of five candidates and kept the result for other five candidates pending including the result of respondent no.4, Sh.Manish Kumar Thakur, who had obtained 99 marks in the main examination. Subsequently, the petitioner learnt that respondent no.4, who had obtained one mark less than the petitioner, had been selected for the aforestated post. The petitioner was also informed by respondent no.3 on 23.11.2012 that the reason for his non-selection was his lack of qualification/experience as per the Recruitment Rules i.e. not having a degree in Labour Law.

3. Mr.Singal, learned counsel for the petitioner, submits that the Tribunal has in fact held in favour of the petitioner that the petitioner meets the eligibility criteria but the OA has been rejected, as according to the Tribunal both, the petitioner and the official respondents, had suppressed material facts from the Tribunal and the petitioner had not submitted copies of all the requisite testimonies along with his application to the post. Counsel further contends that the observation of the Tribunal is contradictory in nature as while in para 11 of the impugned order the Tribunal has held the petitioner to be qualified and he meets the eligibility criteria but in the concluding portion the OA filed by the petitioner was rejected.
4. Learned counsel for the petitioner has laid strong stress on the desirable qualification of the petitioner that the petitioner holds a degree in law and submits that in fact there is no degree in labour law and this was an error in the advertisement itself, which error stands rectified by the respondents in their Recruitment Rules for the same post. Additionally, it is submitted that the Degree of Law by itself would cover a Degree in Labour Law itself.

5. Mr.Ghosh , learned counsel for the respondents, who enters appearance on an advance copy, submits that the petitioner does not meet the eligibility criteria. Counsel further submits that respondent no.4, who had obtained one mark less than the petitioner herein, was selected as respondent no.4 had the requisite qualification and in view thereof he was given preference to the petitioner. In support of this submission Mr.Ghosh has drawn the attention of the Court to the stand taken by the respondents before the Tribunal where the qualification of the respondent no.4 were detailed:

“9. That the respondent no.4 has Higher Qualifications (Master in Social Work, Tata Institute of Social Sciences, Mumbai as well as Post Graduate Diploma in Industrial Relation and Personnel Management from Bhartiya Vidya Bhawan) and Experience and he is eligible and fit for the said post in all respects.”

6. Mr.Ghosh submits that although the advertisement published by respondent no.3 may be unhappily worded but it is not for the Court to read the advertisement in any other manner except the manner in which it has been published.
7. Mr.Ghosh also submits that on a query raised by the petitioner under the Right to Information Act as to whether any University provides a degree in Labour Laws he was informed that a degree in Master in Labour Laws and Labour Welfare is provided by the ILS Law College, Pune.
8. We have heard learned counsel for the parties and also considered their rival submissions. For the purpose of deciding this application, it would be useful to refer to the eligibility criteria as set out in the advertisement, which reads as under:

“Essential Qualifications: 1. Bachelor’s Degree in any discipline from a recognised university/institution.

2. Degree in Labour Law/Personnel Management/Social Work from any recognized university or institution,

OR

Diploma in Labour Law/Personnel Management/Social Work from any recognized university/institution with 2 years experience in any responsible capacity in any Central/State Govt. Office.

Desirable qualifications: Degree in Law or higher qualifications in the field of Labour Law/Personnel Management/Social Work.”

9. In the present case, admittedly, the petitioner has a Bachelor’s Degree, however, the petitioner has failed to meet the essential qualification, as he does not have a degree in Labour Law/Personnel Management/Social Work from any recognised University or institution, nor a diploma in Labour Laws/Personal Management/Social Work from any recognised University/Institution with two years experience in any responsible capacity in any Central/State Government Office. Whereas, respondent no.4 has a Master’s degree in Social Work from Tata Institute of Social Sciences, Mumbai, and a Post Graduate Diploma in Industrial Relation and Personnel Management from Bhartiya Vidya Bhawan, and experience.
10. While, we find the advertisement published by respondent no.3 in the year 2009, with respect to the aforestated post, to be unhappily worded but we find that respondent no.4, who had obtained lesser marks than the petitioner, has all the requisite qualifications and experience as per the advertisement, and he is, thus, suitable to the post of labour inspector.

Since the petitioner does not meet the eligibility criteria, no relief can be granted to the petitioner. Resultantly, we find no merit in the present writ petition and the same is accordingly dismissed. No costs.

G.S.SISTANI, J

V.P. VAISH, J

NOVEMBER 20, 2015 msr