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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2058/2003

Date of decision: 29th April, 2016

SH.SUKHDIN VERMA & ORS.

..... Petitioners

Through: Mr. Karunesh Tandon, Adv. along
with petitioner No.1 in person.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Vijay Joshi, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J.

1. In CM No.27630/2015, the respondent had filed an additional document on 8th March, 2016 to the effect that during the pendency of the petition, the petitioner was offered the post of Mason Attendant by a letter dated 2nd February, 2011 which he accepted and presently, he is working with the respondent in the pay-band of Rs.5200-20200/- plus grade pay of Rs.1800/-. Paras 3, 4 and 5 of the said document read as under:-

“3. It is submitted that the three posts of Stone Cutter were published and the name of the petitioner no. 1 Shri Sukhdin Verma was included for the post of Stone Cutter and the petitioner no.1 Shri Sukhdin Verma was directed to submit the proof of his education qualifications in support of his eligibility for the post of Mason but the petitioner no.1 failed to submit the required documents within stipulated time hence has was offered the post of

Mason Attendant as per his eligibility vide letter dated 2.2.2011 for his acceptance, which was duly accepted by petitioner no.1 Sh.Sukhdin Verma S/o Late Sh. Lachhi Ram who is presently the petitioner no.1 and working with the respondents in the pay scale of Rs.5200-20200/- plus GP Rs.1800 and other usual allowances as per applicable rules.

4. *It is submitted that Shri Sukhdin Verma, S/o Sh.Lachhi Ram was working on daily wages as a skilled casual labourer since 1986.*

5. *That in the year 2003 three posts of Stone Cutter were created for which it was felt that these posts are required to be filled. Accordingly an interview was held to select suitable candidates for filling up all these posts of Stone Cutter by open selection method as per the extent recruitment rules for which 98 candidates had applied and were called for interview. However, only 19 candidates including the applicant Sh.Sukhdin Verma appeared for interview before the selection committee. Out of these 19 candidates who appeared before the selection committee on 17.6.2003, the case of 6 candidates unreserved category and 2 for OBC category candidates were recommended by the selection committee. Sh. Sukhdin Verma S/o Sh. Lachhi Ram was one candidate out of the six unreserved candidate, whose case was recommended by the selection committee.”*

2. In view of this development, on the last date of hearing i.e. 11.03.2016 the learned counsel for the petitioner was granted time to obtain instructions whether the petitioner wanted to press the writ petition. Today, the petitioner is present in person but his counsel is not. However, Mr. Karunesh Tandon, Advocate who is present in Court has assisted in the matter on behalf of the petitioner.

3. The petitioner's case is that he had requested for his regularization in Group 'C' service; that he was appointed as a casual labour with the respondent in Delhi Circle as a Mason in the year 1986 and he had worked continuously for a number of years but was not regularized. The petitioner approached the CAT along with seventy-one others seeking regularization in Government employment. The learned Tribunal directed the respondent to make a realistic assessment of posts for regularization. In 1994, 54 out of 73 candidates excluding the petitioner were granted temporary status.

4. Later an Expert Committee was constituted to assess the requirement of workers in various trades and to recommend the creation of appropriate number of regular jobs. In 2001, three posts of Mason were advertised precluding daily wagers and casual labours.

5. The respondents contend that after the implementation of Sixth Pay Commission, Group 'D' posts have been upgraded to Group 'C' posts as per order of Department of Personnel and Training. Hence, the scheme of DoPT dated 10.9.1993 would not apply to a casual labour seeking regularization to Group 'D' post and for Group 'C' employees. A separate process is laid down for their selection/interview.

6. During the course of hearing, we referred to the petitioner's letter dated 18.01.2003 seeking appointment to the post of Stone Cutter in terms of the advertisement dated 28.12.2002 published in Employment News. Apparently, he had annexed a copy of his experience certificate, birth certificate and a photocopy of the seniority list regarding the temporary workers. The respondent had

declined to employ him to the post of Stone Cutter because he did not possess the minimum essential qualification of Vth standard pass. Nevertheless, he was subsequently offered the post of Mason Attendant on 2nd February, 2011 which he accepted. An office order was issued on 3.2.2011 which reads as under:-

“OFFICE ORDER

On acceptance to the post of Mason Attendant offered to him vide this office letter No.11/11/2004-Admn (DC) 10746 dated 02/02/2011, the services of Sh. Sukhdin S/o Late Sh. Lachhi Ram, a Casual Labour has been regularized to the post of Mason Attendant in the pay scale of Rs.5200-20200 + GP 1800/- usual allowances as per Rules from time to time. He has been taken in the strength of this office with effect from 03/02/2011 (forenoon). He is posted in the Red Fort, Sub Circle, New Delhi.”

7. We have put it to the petitioner as well as to the learned counsel assisting on his behalf whether he had ever submitted any mark sheet or certificate to the effect that he was a Vth Standard pass, but no meaningful reply was forthcoming. The petitioner submitted that he may have given it earlier but we find that the petitioner has neither in his letter dated 18.01.2002 seeking his employment to the post of Stone Cutter nor in the legal notice dated 11.12.2003 made any mention of a Vth Standard pass certificate.

8. We are of the view that insofar as the petitioner did not possess essential educational qualification for appointment to the post of Stone Cutter he could not have been so appointed. In any case, he has accepted the employment as Mason Attendant from 3.2.2011 and is

working in the same post and would be entitled to the benefits accruable to the said appointment as per Rules. Let the benefits of such employment flow to the petitioner. Nothing survives in the petition. The petition is disposed-off in the above terms.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

APRIL 29, 2016
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