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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6115/2016, CM Nos.25044-25045/2016**
S K SHARMA

..... Petitioner

Through: Mr.Setu Niket, Adv. with petitioner in
person

Adv.

versus

DELHI TRANSCO LTD.& ANR.

..... Respondent

Through:Ms. Avnish Ahlawat, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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20.07.2016

CM.No.25045/2016

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6115/2016

1. The present petition has been filed by the petitioner with the following reliefs:

“A. issue a writ of certiorari or any other writ, order or direction of like nature quashing and setting aside impugned order dated 10/11/2015 to the extent promoting Respondent No.2 as Manager (T);

B. issue a writ of mandamus or any other writ, order or direction of like nature directing Respondent No.1 to promote the Petitioner to the post of Manager (T) with effect from 10/11/2015 along with all other consequential benefits;

C. issue a writ of prohibition or any other writ, order or direction of like nature prohibiting the Respondent No.1 from including the Petitioner in the list of degree holders;
D. Award appropriate costs in the facts and circumstances of the case”.

2. The petitioner was initially appointed as Inspector, on having Diploma in Electrical Engineering. The said post of Inspector was re-designated as Junior Engineer. On May 14, 2015, the petitioner had, after taking permission from the Department obtained the Degree in B.Tech. (Electrical Engineering). It is his case, that in the year 2009 and 2011, the seniority list issued by the respondent would show, the respondent No. 1 has a diploma holder.

3. Learned counsel for the petitioner would submit that the petitioner was promoted to the post of Assistant Manager (Tech.) as a Diploma Holder. According to him, the next promotion post is of Manager (Tech). It is conceded by the counsel for the parties that the eligibility for the promotion to the post of Manager (Tech.) is seven years as Assistant Manager (Tech.) irrespective of being a diploma holder/degree holder. It is also conceded by the learned counsel for the parties that as per the Recruitment Rules, the post of Manager (Tech.) stipulates 90% of the posts shall be filled from the degree holders and 10% from the diploma holders.

4. Learned counsel for the petitioner has drawn my attention to the page 76 of the paper book, which is a representation dated May 12, 2015 wherein, he has requested the Director (H.R.) of the respondent No. 1 to consider his case for promotion to the post of Manager (T.) based on his diploma qualification only. According to him, despite this, the respondents have not considered the case of the petitioner for promotion and in fact, has issued the impugned order dated November 10, 2015, whereby they have promoted the respondent No. 2 Sandeep Babuta, who was junior to him in the cadre of Assistant Manager (Tech.), overlooking the prior claim of the petitioner. During the course of the hearing, on a specific query put to the learned counsel for the petitioner, whether in future, the petitioner is ready to forgo the benefit of degree qualification and be considered as diploma holder only, to which, learned counsel for the petitioner, after taking instructions from the petitioner, states that the petitioner shall not take the benefit of the degree qualification for any service benefits including the promotion in future. The statement is taken on record.

5. I have been informed that there are no vacancies available against 10% quota reserved for diploma holders. I have been informed that the next vacancy would arise on August 1, 2016. If that be so, the present petition

can be disposed of, directing the respondents to consider and decide the representation dated May 12, 2015 keeping in view the statement made today on behalf of the petitioner on his instructions, as noted above, and consider him for promotion on ad-hoc basis to the post of Manager (Tech.) against next available vacancy and if found fit promote him to the post of Manager (Tech) on ad hoc basis, with appropriate seniority. The petitioner shall not be entitled to any other benefits except seniority as per feeder cadre. This process be carried out on or before September 30, 2016.

6. The petition is disposed of in the above terms.

Dasti to the parties.

CM. No.25044/2016

In view of the order passed in the writ petition, the present application is dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 20, 2016/akb