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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 222/2018, CM APPL. 15926/2018 (Stay) & CM APPL. 15927/2018 (exemption)**

PRATYUSH ANAND MISHRA & ORS

..... Appellants

Through: Mr. Kabir Dixit, Mr. Krishnam
Mishra & Mr. Shashank Singh, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Gigi C. George, Senior Panel
Counsel with Mr. Vikrant Goyal, Adv
for R-1.
Mr. Atul Shankar Mathur, Ms. Priya
Singh & Ms. Sweta Singh, Advs for
R-2.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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23.04.2018

1. The solitary issue that has been raised in the present appeal is, whether the Bharat Heavy Electricals Limited (for short 'BHEL'), as a matter of policy, can postulate the requirement of one year post qualification experience as an executive officer in any Government/Semi Government/ Public Sector Undertaking or Bank and listed Companies with NSEs and BSEs, as an essential qualification, for appointment to the post of Law Officers (hereinafter

referred to as the 'subject appointment')?

2. In this behalf, it has been vehemently urged on behalf of the appellant that, lawyers form a distinct category by themselves, and therefore, the above-mentioned stipulations are arbitrary, as they treat equals as unequals.

3. Insofar as, the mandatory requirement of one year's experience for the subject appointment is concerned, we cannot but agree with the learned Single Judge when he observes that, the same cannot be said to be arbitrary for the reason that, experience in the above said assignments facilitates the effective functioning of the candidates as law officers in BHEL. Therefore, it cannot be said that the lawyers are completely excluded, from consideration.

4. We are further in agreement with the finding of the learned Single Judge, that it is open to the BHEL to prescribe essential qualifications for employment; and the same being essentially, a policy matter based on a number of circumstances, as well as, expert opinion, cannot be considered to be violative of the mandate of Article 21 of the Constitution of India. Courts are loathe to enter into the realm of eligibility and essential qualification in public employment which belongs exclusively to the executive. It is consequently not within the domain of this court to weigh the pros and cons of an essential qualification postulated by the BHEL, for the subject appointment, and the same cannot be construed to result in denial of equal opportunity.

5. In other words, it is not for the courts to consider the relevance of the qualifications prescribed for any post by the BHEL save and

except where it is violative of the constitutional, statutory or other requirements of law.

6. In this view of the matter, we see no reason to interfere with the impugned order. Resultantly, the present appeal, being devoid of any merit is accordingly dismissed.

SIDDHARTH MRIDUL, J

DEEPA SHARMA, J

APRIL 23, 2018

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