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

Date of Decision: 18.11.2019

+ W.P.(C) 12086/2019

SH. KARAMBIR

..... Petitioner

Through: Mr. Anuj Aggarwal &
Mr.Saurabh Ahuja, Advs.

versus

DELHI JAL BOARD

..... Respondent

Through: Mr. Sumeet Pushkarna,
Standing Counsel with
Mr.Devanshu Lahiry, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL. No. 49488/2019 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 12086/2019

The present petition is directed against order dated 12.03.2019 passed by the Central Administrative Tribunal (the “Tribunal”).

The petitioner joined the services of the respondent as a – Fitter Class II in December, 1990. Since then, he has continuously worked at the said post. The grievance of the petitioner before the Tribunal and before this court is that several juniors of the petitioner have been promoted to the post of – Fitter Class-I by Delhi Jal Board while the

petitioner has been overlooked. The consistent stand of the respondent before the Tribunal and before this court today is that 'fitters' in the Delhi Jal Board are divided into two categories :

(a) Fitter-Distribution Section and (b) Fitter-Bulk Section.

2. Mr. Pushkarna, learned counsel for the respondent has submitted that the petitioner has been carrying-out his job only as Fitter-Distribution Section, which is distinguishable and different from the job of a Fitter Bulk Section ; and that both the sections have separate seniority lists. Counsel submits that the seniority list was not challenged by the petitioner at any point of time. Mr. Pushkarna submits that in the bulk section, the nature of job responsibilities are far greater ; the work pertains to repair and dealing with larger pipes used for bulk supply of water in plants and are governed by the Factories Act, which is not the case with at Fitter in the distribution section, which involves attending to consumer complaints and doing less rigorous field work, although there may be same overlap.

3. Mr. Anuj Aggarwal, learned counsel for the petitioner however submits that at the time of appointment of the petitioner, no distinction was either made nor pointed-out nor any option was given to the petitioner to join either of the two sections and that the distinction sought to be drawn is belated and imaginary in nature. He further submits that the qualification criteria for Fitters in both sections is identical and thus the respondents could not have prepared two separate seniority lists.

4. We have heard learned counsel for the parties.

5. While disposing of the O.A, the Tribunal has granted liberty to

the petitioner to make a representation to the respondent to consider his case.

6. At this stage Mr. Aggarwal submits that a detailed and comprehensive representation would be made raising all grounds available to him, including the ground with regard to untenability of two seniority lists and creation of different cadres.

7. Accordingly, the present petition is disposed of granting liberty to the petitioner to make a representation as was granted by the Tribunal. If a comprehensive representation is made, raising all the grounds available to the petitioner, the same would be decided by the respondent expeditiously, in accordance with law. An opportunity of hearing will also be granted to the petitioner.

8. We make it clear that if the petitioner is aggrieved by the final decision taken by the respondent on his representation, he would be at liberty to assail the same, in accordance with law, raising all grounds raised by him in the representation. The findings of the Tribunal would not stand in way of the respondent.

9. All legal objections raised by the respondent are also kept open.

10. The representation be filed within two weeks.

11. The writ petition is disposed of in the above terms.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

NOVEMBER 18, 2019/uj