

\$~21

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

% Judgment delivered on: 23rd November, 2022

+ **W.P.(C) 3253/2017 and C.M. No. 14133/2022**

UNION PUBLIC SERVICE COMMISSION Petitioner

Versus

DR. VENKATESHWARAN V & ORS Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Ravinder Agarwal, Advocate.

For the Respondents: Mr. Saket Sikri, Mr. Ajay Pal, Mr. Vikalp,
Mr. Jasbir Bidhuri and Ms. Priya, Advocates
for respondent No.1.
Mr. Ashish Nischal, Advocate for
respondent No.3.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J (Oral)

1. Learned counsel for petitioner submits that the subject post has been re-advertised as a certificate dated 24.07.2020 was received from the user department i.e., Department of Agriculture and Cooperation,

specifically stating that there is no court case/litigation pending qua the said post.

2. Petitioner impugns judgment dated 14.12.2016 of the Central Administrative Tribunal (hereinafter, the 'Tribunal'), wherein the Original Application filed by respondent No.1 seeking setting aside of the selection of respondent No.3 to the post of Extension Officer, has been allowed.

3. While holding that respondent No.3 was not qualified for the post, the Tribunal has returned a finding that respondent No.1 (petitioner before the Tribunal) was four times more experienced than respondent No.3 and accordingly, set aside the selection of respondent No.3 and directed the petitioners to appoint respondent No.1 as the Extension Officer against the direct recruitment post with effect from the date of appointment of respondent No.1 on deputation.

4. Learned counsel for petitioner submits that the Tribunal was not qualified to make a comparative assessment of the qualification and return a finding that respondent No.1 was qualified and that also four times over-qualified than the respondent No.3. Learned counsel submits the Tribunal could have at best quashed the appointment of respondent No.3, but could not have then evaluated the qualification of respondent No.1, which is the prerogative of the Selection Board. He submits that the Selection Board comprises of expert in the subject field and they alone are competent to opine on the qualification and

suitability of an individual for a particular post.

5. Learned counsel appearing for respondent No.1 concedes to the said position and submits that he has no objection in case a direction is issued to the petitioner to re-constitute a Selection Board for assessing the suitability, eligibility and merit of respondent No.1. He further submits that there was also a prayer before the Tribunal for converting the deputation of respondent No.1 on that very post into a regular appointment. He submits that the experience gained while working on deputation may also be taken into account by the Selection Board.

6. In view of the above, the impugned order dated 14.12.2016 is set aside to the limited extent that it directs appointment of respondent No.1. The petitioner is directed to re-constitute a Selection Board for assessing the suitability, eligibility and merit of respondent No.1 to the said post. If found suitable, consequential directions be issued by the Competent Authority in accordance with law.

7. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

NOVEMBER 23, 2022/NA