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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 05.01.2024

+ **W.P.(C) 11902/2023 AND CM APPL. 62949/2023**
HOUSING AND URBAN DEVELOPMENT CORPN. LTD.

..... Petitioner
Through: Mr. Balbir Singh, Sr. Advocate, Mr.
Rohit Sharma, Mr. Nikhil Purohit,
Mr. Jatin Lalwani and Mr. Naman
Tandon, Advocates.

versus

VARSHA PUNHANI & ORS. Respondents

Through: Mr. Rajeshekar Rao, Sr. Advocate
with Ms. Rashmi Chopra, Mr. Prateek
Gupta, Mr. Ayush Kapoor, Ms.
Gunjan Shrivastav, Mr. Harshil
Wason and Ms. Jyotsna Punshi,
Advocates for R-1.
Ms. Pratima N. Lakra, CGSC with
Ms. Vanya Bajaj, Advocate R-2
and 3.
Ms. Rounak Nayak, Advocate R-4
to 6.
Mr. Nitin Dahiya and Mr. Sushant
Kumar, Advocates for R – 7 & 8.

+ **W.P.(C) 149/2024 AND CM APPL. 649/2024, CM APPL.**
650/2024 & CM APPL. 651/2024
SHRI S GURUDATTA & ANR. Petitioners

Through: Mr. Nitin Dahiya and Mr. Sushant
Kumar, Advocates.

versus

VARSHA PUNHANI & ORS. Respondents



Through: Ms. Rashmi Chopra and Ms. Fiza Chopra, Advocates for Mr. Rajshekhar Rao, Sr. Advocate for R-1.
Mr. Rohit Sharma, Mr. Nikhil Purohit, Mr. Jatin Lalwani, Advocates for R-7.
Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Pankaj Singh, Advocates for UOI.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

REKHA PALLI, J (ORAL)

1. The present writ petitions seek to assail order dated 10.08.2023 passed by the learned Central Administrative Tribunal in O.A. No. 2264/2018. Vide the impugned order, the learned Tribunal, while allowing the O.A. preferred by the respondent no. 1, has quashed the promotion order dated 22.12.2017 and has consequently directed the Housing and Urban Development Corporation Limited to make amendments in the promotion criteria for the post of General Manager (Projects) and thereafter reconsider candidates for promotion to the said post.
2. Learned senior counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal has set aside the promotion criteria by mechanically applying the ratio of the decision in *Munindra Kumar v. Rajiv Govil, (1991) 3 SCC 368*. He therefore contends that the learned Tribunal has erred in holding that allocation of 10 marks for interview, out of the total 30 marks prescribed for the selection process for



promotion to the post of General Manager (Projects), was arbitrary and impermissible. Furthermore, the promotion criteria itself has been set aside without there being any challenge to the same by the applicant/respondent no.1. He, therefore, prays that the impugned order be set aside.

3. On the other hand, learned senior counsel appearing for respondent no. 1 seeks to support the impugned order by contending that even if it were to be held that the decision in ***Munindra Kumar (supra)*** wherein the selection pertained to promotion and not direct recruitment was not applicable to the present case, a bare perusal of the minutes of the Departmental Promotion Committee (“DPC”) would show that merit was totally ignored while selecting candidates for promotion. By drawing this Court’s attention to the marks awarded to some of the selected candidates in the interview, he submits that the DPC had deliberately awarded higher marks to candidates whom they wanted to select despite they being less meritorious as per the objective criteria which comprised of 20 marks on the basis of their three appraisal reports (APAR) and field experience. After some arguments, he concedes that the impugned judgment is based solely on the premise that 33.3 % marks could not be allocated for interview in the selection process.

4. Having considered the submissions of the learned senior counsel for the parties, we find merit in the petitioner’s plea that the learned Tribunal has erred in quashing the selection criteria and the consequential promotions only on the basis of the decision in ***Munindra Kumar (supra)***. It appears that the learned Tribunal has proceeded to apply the ratio of ***Munindra Kumar (supra)*** without considering the subsequent decisions of the Apex Court including the decision in ***K.A. Nagamani v. Indian Airlines***,



(2009) 5 SCC 515 and *Manish Kumar Shahi vs. Union of India*, (2010) 12 SCC 576, wherein it was explained that there cannot be a hard and fast rule for the weightage to be given to the interview in a selection process. In our view, the learned Tribunal has overlooked the fact that this was not a case of direct recruitment like the one in *Munindra Kumar (supra)* but was a case where selection for promotion to the post of General Manager (Projects) were to be made from candidates with mature personalities.

5. While setting aside the promotion criteria on the solitary ground of 33% marks being earmarked for interview, the learned Tribunal has lost sight of the fact that parameters which are applicable for selection by way of direct recruitment cannot be automatically made applicable to selection by way of promotion. In our considered opinion, in a case like the present, where candidates were being considered for promotion from the post of Joint General Manager (Projects) to the General Manager (Projects), it could not be said that merely because excessive marks were allocated for interview, the selection criteria was arbitrary.

6. We, therefore, have no hesitation in holding that the learned Tribunal has erred in setting aside the selection criteria. The impugned order dated 10.08.2023 is, accordingly, set aside. However, taking into account the admitted position that the respondent no.1 had before the learned Tribunal, raised various other grounds assailing the selection process, which grounds have not been dealt with by the learned Tribunal, we are of the view that the respondent no. 1 should be granted an opportunity to urge all other grounds as had been raised before the learned Tribunal.

7. In the light of the aforesaid, the writ petitions are allowed by setting aside the order dated 10.08.2023 and remanding the matter to the learned



Tribunal for fresh adjudication of the O.A. on all grounds raised by the respondent no. 1. Taking into account that the pleadings in the matter are already complete and the selection process by which the respondent no. 1 is aggrieved pertains to year 2017, the learned Tribunal is requested to make an endeavour to decide the O.A. within a period of six (06) months from today.

8. The writ petitions along with all pending applications stand disposed of in the aforesaid terms.

9. The next date of hearing, i.e., 25.01.2024, fixed in W.P.(C) 11902/2023 stands cancelled.

(REKHA PALLI)
JUDGE

(DR. SUDHIR KUMAR JAIN)
JUDGE

JANUARY 5, 2024

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