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

+ **W.P.(C) 10382/2025**

**MR. HIMANSHU CHAUBE**

.....Petitioner

Through: **Mr. Babul Kumar, Advocate.**

versus

**UNION OF INDIA AND ORS.**

.....Respondents

Through: **Mr. Abhishek Gupta, CGSC with  
Mr. Sharswat Kumar Pandey, Mr.  
Kumar Kartikeya & Mr.  
Dhananjay Singh, Advocates [M:-  
9628158386]**

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

**15.10.2025**

1. By way of this writ petition under Article 226 of the Constitution, the petitioner seeks appointment to the post of Junior Scientific Assistant (Geophysics-S), advertised by the respondent-Oil and Natural Gas Corporation Limited ["ONGC"] vide advertisement No. 2/0222 dated 07.05.2022.

2. It is the petitioner's contention that one vacancy was advertised in the said post, and the petitioner was placed at the second position in the merit list, i.e. he was at the first position in the waiting list. The petitioner contends that the selected candidate, Ms. Ankita Kukshal joined on 06.03.2023, but resigned after a period of approximately two months. The petitioner therefore seeks appointment in lieu of the appointed candidate.

3. Mr. Babul Kumar, learned counsel for the petitioner, relies upon a communication issued by ONGC dated 12.12.2024, which in turn refers to Ms. Kukshal's appointment to a higher post at E-1 level on 19.05.2024,



and also refers to instructions which state that a candidate from the waiting list may be appointed within the validity of the panel, in the event of “*failure/reluctance/refusal of any candidate to join on appointment or resignation*”. The petitioner’s case is predicated upon the contention that Ms. Kukshal resigned from the post in question, thus entitling him to appointment against the said post.

4. Mr. Abhishek Gupta, learned Central Government Standing Counsel for ONGC, however, submits that Ms. Kukshal did not resign, but was selected to a higher post while she was already employed with ONGC in the post of Junior Scientific Assistant (Geophysics-S). In this connection, Mr. Gupta draws my attention to paragraphs 4 and 5 of the counter affidavit, which states as follows:

*“4. The Respondent-ONGC had issued an Advt. No- 2/2022 (R&P) for the Recruitment of Non-Executives in ONGC (Annexure P/1 of WP), against which the Petitioner had applied for the post of Junior Scientific Assistant (JSA) (Geophysics-Surface) (F1 post) and appeared for Computer Based Test on 28.07.2022. Ms. Ankita Kukshal had also applied for the same post. In the same year, on 22.09.2022, ONGC issued another Advt. No- 6/2022 (R&P) (Annexure P/8 of WP) for recruitment of Geophysicist Surface (E1), for which Ms. Kukshal again applied. The interview for the E1 post of Geophysicist Surface was held on 18.01.2023, which was before the result date for the F1 post, i.e. 09.02.2023. Ms. Kukshal got selected in the F1 post, and joined ONGC at Dehradun on 06.03.2023. Thereafter, the result for E1 post was issued on 15.04.2023, and she got appointed to such higher post on 19.05.2023.*

*5. It is submitted that the vacancy for the position of JSA-Geophysicist (S) would have been considered, only in the event of failure/reluctance/refusal of any candidate to join on appointment, or resignation. However, in the instant case, **Ms. Kukshal had joined and saturated the post JSA-Geophysics (S), and then got selected to higher post, while already employed in ONGC at a lower post. Notably, the date of joining ONGC in respect of Ms. Kukshal would be reckoned as 06.03.2023 only (i.e. Date of***



**Joining as JSA) for all purpose. Therefore, Ms. Kukshal did not resign from the post of Junior Scientific Assistant-Geophysics Surface.** In view of the same, waiting list cannot be invoked by ONGC for the mentioned post.”

[Emphasis supplied.]

5. The office order dated 11.01.2019, upon which the petitioner also places reliance, modified the existing instructions regarding utilisation of a existing recruitment panel, to the following effect:

*“Offer of appointment may be restricted to the number of vacancies notified in the recruitment exercise. However, in the event of **failure/reluctance/refusal of any candidate to join on appointment or resignation**, the candidate from the waiting list may be pushed up and be issued offer of appointment in the vacancy so caused within validity of the panel. In no other circumstances, the recruitment panel can be utilized for filling up of future vacancies arising out of any reason whatsoever.”*

[Emphasis supplied.]

6. The judgments of the Court with regard to operation of a waiting list or panel are clear. In general, the select list or panel loses significance as soon as the number of advertised posts are filled up. Reference in this regard may be made *inter alia* to the judgments of the Supreme Court *Mukul Saika and Ors. v. State of Assam and Ors.* [(2009) 1 SCC 386], and *Rakhi Ray and Ors. v. High Court of Delhi* [(2010) 2 SCC 637]. These judgments make it clear that the candidate's name appearing in the select list or wait list does not give rise to an indefeasible right of appointment. The Division Bench of this Court in a recent judgment in *Dr. Shashi Bhushan v. University of Delhi and Anr.* [(2025) SCC OnLine Del 1319] summarised the law as follows:

*“23. Shankar San Dash case enunciated more than 30 years ago the principle that a selected candidate has no right to appointment. Selection only confers on a candidate a consideration for appointment. Of course, the appointing authority cannot keep*



*vacancies unfilled without due justification. That principle, however, would apply only where no appointment was made against the number of vacancies advertised or notified. **Once appointments had been made, the responsibility of the appointing authority to continue to operate the select panel or the waiting list ceases, in the absence of any binding rule, ordinance or instruction to the contrary. If a vacancy arises thereafter, on account of, for example, one of the appointed candidates resigning, that vacancy would have to be readvertised.***

[Emphasis supplied.]

7. The aforesaid principles are somewhat expanded by the Office Order dated 11.01.2019, to the extent that they contemplate appointment, even on the selected candidate resigning from service. However, it is also clear therefrom that the waiting list can only be operated in the circumstances mentioned therein, and cannot be used in any other circumstances for filling of the future vacancies arising out of any reason whatsoever.

8. Applying these principles, and having considered the submission of learned counsel for the parties, I am of the view that the respondent's contention must prevail. It is evident from ONGC's affidavit, that Ms. Kukshal had applied for both posts, Junior Scientific Assistant (Geophysics-S) – the post for which the petitioner had also applied – and Geophysicist (Surface), under a separate advertisement [Advertisement No. 6/2022] issued on 22.09.2022. The result for the post of Junior Scientific Assistant (Geophysics-S) was declared first, in which Ms. Kukshal was selected, and joined ONGC on 06.03.2023. The result for the higher post of Geophysicist (Surface) was declared on 15.04.2023, and upon her selection for the said post, she was appointed thereto, while already employed in ONGC. ONGC has categorically stated that Ms.



Kukshal did not resign from the post of Junior Scientific Assistant (Geophysics-S), and that her date of joining in ONGC for all purposes remains 06.03.2023.

9. ONGC has clearly explained the factual circumstances leading to the post of Junior Scientific Assistant (Geophysics-S), having been vacated by Ms. Kukshal. She joined in the said post, the result of her application for a higher post was subsequently declared, and she was appointed thereto after having already joined the service of ONGC, without tendering resignation. Factually, the case is therefore not one of resignation at all as sought to be contended by the petitioner. The office order dated 11.01.2019 cannot be extended to cover the situation where there is no resignation at all.

10. The petitioner's contention must therefore be rejected. The writ petition is accordingly dismissed.

**PRATEEK JALAN, J**

**OCTOBER 15, 2025**

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