



2026:DHC:1642-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 19.02.2026

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LPA 789/2025 & CM APPL. 81565/2025**HIMANSHU CHAUBE**

.....Appellant

Through: Mr. Babul Kumar, Advocate.

Versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Anshuman, SPC with Mr. Rahul Kumar Sharma, Advocate for UoI.
Mr. Abhishek Gupta, CGSC with Mr. Kumar Kartikeya and Mr. Chanakya Kene, Advocates for ONGC.**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)**

1. This Letters Patent Appeal has been filed by the Appellant against the Judgment and Order dated 15.10.2025 (“**Impugned Judgment**”) passed by the learned Single Judge of this Court in W.P.(C) No. 10382/2025 (“**Writ Petition**”), whereby the Writ Petition filed by the Appellant seeking a direction to the Respondents to appoint him to the post of Junior Scientific Assistant (Geophysics–S) (“**JSA F-1 Post**”) under Advertisement No. 2/2022 (R&P) was dismissed.

2. The brief facts leading to the filing of the present Appeal are as under:

2.1. The Respondent–Oil and Natural Gas Corporation (“**ONGC**”) issued an Advertisement No. 2/2022 (R&P) dated 07.05.2022,



inviting applications for various junior level non-executive posts, including one unreserved vacancy for the post of JSA F-1 in the Dehradun region.

- 2.2. The Appellant applied pursuant to the Advertisement and was issued an admit card to appear in the written examination held on 28.07.2022 at Haldwani, District Nainital, Uttarakhand.
- 2.3. The Appellant participated in the examination and secured 77.90 marks, obtaining second position in the merit list and being placed as waiting list candidate no. 1. He was, thereafter, called for document verification after qualifying the written examination on 12.12.2022.
- 2.4. The results were declared on 09.02.2023, which reflected the selection of one Ms. Ankita Kukshal ("**Ms. Kukshal**") against the said vacancy, who joined the post of JSA F-1 at the Dehradun Work Centre on 06.03.2023.
- 2.5. Subsequently, Ms. Kukshal was selected for the post of Graduate Trainee (Geophysicist) ("**E-1 Post**") under Advertisement No.06/2022, which is an Executive level post, based on GATE-2022 scores and personal interview. She was appointed to the said senior post at the Vadodara Work Centre on 19.05.2023, before completion of her probation on the junior post.
- 2.6. According to the Appellant, once Ms. Kukshal was relieved from the JSA F-1 Post, the vacancy stood revived, thereby entitling the Appellant, being first in the waiting list, to appointment against the said post. He relied upon ONGC's



Service Rules, particularly Clause 24(6), and office order dated 11.01.2019 (“**Office Order**”) to contend that where a selected candidate resigns within the validity of the panel, the next wait-listed candidate must be appointed.

- 2.7. The Appellant sought information from the ONGC under the Right to Information Act, 2005 seeking clarification regarding the rules governing operation of the waiting list. In response, the Respondent-ONGC informed that the names of candidates from the waiting list are released only in the event a selected candidate fails to join, resigns, or is declared medically unfit. It was further clarified that the waiting list or panel remains valid for a period of six months from the date of declaration of results, extendable by another six months with the approval of the Competent Authority. The trigger for calling a candidate in the waiting list arises only upon cancellation of the initial appointment offer or acceptance of resignation by the competent authority, and only if the panel continues to remain valid. The Appellant contended that Ms. Kukshal’s relieving amounted to resignation, thereby triggering consideration of the waiting list.
- 2.8. Thereafter, the Appellant made several representations to the Respondent-ONGC seeking appointment to the revived vacancy but reportedly received no response.
- 2.9. As no appointment was offered to him, the Appellant filed the Writ Petition before this Court seeking a writ of *mandamus* to direct the Respondent-ONGC to appoint him to JSA F-1 Post.



- 2.10. The Respondent-ONGC filed a Counter Affidavit explaining that the vacancy did not fall within the contingencies that permit operation of the waiting list. The Appellant, thereafter, filed a Rejoinder reiterating his claim.
- 2.11. The learned Single Judge, after hearing the parties, dismissed the Writ Petition *vide* the Impugned Judgment, holding that Ms. Kukshal's case was one of appointment to a higher post and not resignation from service; therefore, the waiting list could not be operated.
- 2.12. Being aggrieved by the Impugned Judgment, the Appellant has preferred the present Appeal.
3. We have heard the learned Counsel for the Parties.
4. The learned Counsel for the Appellant submitted that the learned Single Judge in the Impugned Judgment has failed to consider that Ms. Kakshal joined ONGC on 06.03.2023 on the JSA F-1 Post, but subsequently left the post within 2.5 months to accept the E-1 Post under a separate recruitment process (Advertisement No. 6/2022), which created a vacancy in the JSA F-1 Post and the same amounted to resignation of the selected candidate.
5. It was further submitted that as per ONGC Office Order, a candidate from the waiting list must be appointed in case of four circumstances, which are:
- i. Failure to join;
 - ii. Reluctance;
 - iii. Refusal; or
 - iv. Resignation



by the selected candidate. It was submitted that once Ms. Kakshal moved to the E-1 Post, she ceased to hold JSA F-1 Post as her exit amounted to resignation under the service law, which triggered the operation of the waiting list.

6. The learned Counsel for the Appellant submitted that ONGC wrongly treated the vacation of the post by Ms. Kukshal as 'not a resignation', thereby resulting in denial of legitimate appointment to the Appellant. It was submitted that the learned Single Judge wrongly accepted the submissions of ONGC by failing to appreciate that JSA F-1 Post stood vacated in fact and in law, which triggered the Appellant's vested right to be considered.

7. It was submitted that the learned Single Judge misinterpreted the Office Order issued by ONGC and overlooked the fact that the selected candidate withdrew from the JSA F-1 Post as Ms. Kukshal's appointment to the higher E-1 Post could not amount to an internal movement / transfer. It was submitted that as per the settled service rules, joining a new post by direct recruitment results in technical resignation from the earlier post and the employee cannot hold lien over the previous post or hold two substantive posts simultaneously. Further, the selected candidate was still on probation in the JSA F-1 Post and there is no material on record to show that the movement to a higher post during the period of probation was permissible.

8. The learned Counsel for the Appellant submitted that ONGC's own service rules provide that resignation becomes effective only upon acceptance and formal relieving. The fact that Ms. Kukshal was relieved from the JSA F-1 Post to join the even post establishes that the vacancy was revived and should have been filled from the waiting list. It was submitted that the selected candidate was incorrectly classified as 'not having



resigned' resulting in wrongful rejection of the Appellant's appointment from the waiting list by misapplying the service for principles.

9. The learned Counsel for the Respondents submitted that Ms. Kukshal had applied for JSA F-1 Post as well as E-1 Post. The interview for E-1 Post was held on 18.01.2023 prior to the result date for JSA F-1 Post on 09.02.2023. Ms. Kukshal got selected in JSA F-1 Post and joined ONGC at Dehradun on 06.03.2023 and, thereafter, the result of E-1 Post was declared on 15.04.2023 and she got appointed to the higher post on 19.05.2023. As Ms. Kukshal had joined and saturated JSA F-1 Post and then got selected to the higher E-1 Post, while already employed in ONGC at a lower post, she was not considered to have resigned from JSA F-1 Post as her joining date was considered as 06.03.2023, when she joined the JSA F-1 Post. Since, the vacancy for the position of JSA F-1 Post was not on account of failure / reluctance / refusal / resignation, the waiting list could not be invoked by ONGC for appointment of the Appellant at JSA F-1 Post.

10. In view of the above submissions, the learned Single Judge in the Impugned Judgment has held that the case of Ms. Kukshal was not one of resignation as she joined the higher post subsequent to joining the junior post in ONGC. The Impugned Judgment also has held that the wait list lost the significance as soon as the number of advertised posts were filled up as the name appearing in the waiting list did not give rise to an indefeasible right of appointment. The learned Single Judge in the Impugned Judgment has relied upon the decision of the Co-ordinate Bench of this Court in **Dr. Shashi Bhushan v. University of Delhi & Anr.**, (2025) SCC OnLine Del 1319, which held that the selected candidate has no right to appointment as the selection only confers a right of consideration for appointment. It was



held that if the vacancy arises after the appointment has been made, the waiting list ceases to operate in absence of any rule to the contrary.

11. In the present case, the Office Order issued by ONGC provides that the candidate in the waiting list can be considered only in event of failure / reluctance / refusal of the selected candidate to join or resignation and in no other circumstances, the wait list can be utilized for filling up of future vacancies arising out of any reason whatsoever.

12. As Ms. Kukshal was appointed to the higher E-1 Post after joining the junior JSA F-1 Post, none of the circumstances as specified in the Office Order issued by ONGC had arisen. The argument of the Appellant that by appointment of Ms. Kukshal to E-1 Post, she vacated JSA F-1 Post resulting in technical resignation from JSA F-1 Post cannot be accepted as there was no resignation or relieving of Ms. Kukshal by ONGC from JSA F-1 Post and her date of appointment for E-1 Post was treated as same as when she joined JSA F-1 Post. Therefore, it cannot be treated as a case of resignation from JSA F-1 Post triggering the requirement to appoint from the wait list. Accordingly, the Appellant had no vested right of appointment since none of the conditions for appointment from the wait list was fulfilled as specified in the Office Order issued by ONGC, which is relied upon by the Appellant himself.

13. Accordingly, the relief sought by the Appellant in the Writ Petition seeking direction to the Respondent-ONGC for appointment of the Appellant to JSA F-1 Post could not have been granted as rightly held by the learned Single Judge in the Impugned Judgment.

14. In view of the above, we entirely agree with the reasoning and findings of the learned Single Judge in the Impugned Judgment, whereby



after considering the facts and circumstances of the present case and submissions made by the Parties, it has been held that the Appellant had no right of appointment as Ms. Kukshal did not resign from JSA F-1 Post upon her selection for E-1 Post since she continued to be employed with ONGC even after her appointment in the higher E-1 Post. As there was no resignation, the requirement of the appointment from the wait list was not triggered and, therefore, the Appellant was not entitled to the appointment as a matter of right although he was at the top of the wait list.

15. Accordingly, the Writ Petition was rightly dismissed by the learned Single Judge by way of the Impugned Judgment. Hence, no interference is required in the present Appeal. Accordingly, the present Appeal and the pending Application are hereby dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 19, 2026

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