

Mahesh Kumar Vs. Mcd and ors

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Court : Delhi

Decided On : Jan-14-2013

Judge : Pradeep Nandrajog

Appellant : Mahesh Kumar

Respondent : Mcd and ors

Judgement :

\$~1 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: January 14, 2013 + W.P.(C) 409/2012 MAHESH KUMAR Petitioner Represented by: Mr. B.S.Choudhary, Adv. versus MCD AND ORS Respondents Represented by: Ms.Shobhaa Gupta, Adv. for R-1. Mr.Sudhir Gupta with Mr.M.Rao, Advocates for R-2 & 3. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL PRADEEP NANDRAJOG, J.

(Oral) CM No.870/2012 Allowed, subject to just exceptions. W.P.(C) 409/2012 1. Ashok Jain a Municipal Councillor an Honorary Secretary of Hardayal Municipal Public Library indulged in rampant corruption when in between April, 2006 and June 11, 2007 he appointed 799 (somewhere the figure is

788) employees to various posts in the Hardayal Municipal Public Library.

2. So scandalous was the act of Mr.Ashok Jain that even his party colleague, functioning as Mayor of Delhi, could not over-look the same and the appointments

had to be cancelled.

3. Two representative writ petitions were filed in this Court which were registered as W.P.(C) No.11906-07/2009 in which orders were passed constituting a one man committee comprising Sh.G.P.Thareja (a retired District Judge, Delhi).

4. The mandate of the Inquiry Officer was to submit a report to the Court regarding the appointments made. The report was submitted pointing out as many as 9 illegalities committed while making appointments. The 9 illegalities read as under: A. To support the appointment of 799 employees between 1.4.2006 and 11.6.2007 the posts were not there. B. There was no budgetary provision/sanction and/or adequate finance to support the appointments to the extent of appointment made. C. There was no proper advertisement of post. The applications were not called from the Employment Exchange in accordance with law relating to appointments. D. The advertisements by Suchha on the notice Boards of the Library or its branches was not adequate and sufficient advertisements to comply with the requirement of law. E. The initial recruitment on daily wages and subsequent alleged regularization was against Article 14 and 16 of the Constitution of India. Such appointments are not in accordance with fair procedure and requirement of law. F. There was no proper and fair scrutiny of the applications before selections were made for appointments. G. Extraneous considerations were there in the matter of making the appointments. H. I.

5. The mass appointments in the Library between 1.4.2006 and 11.6.2007 are illegal and void in entirety. The mass appointments are liable to be annulled from their inception. The result was that the challenge to the decision taken by the Mayor to discontinue services of persons illegally appointed failed.

6. The appeals filed, registered as L.P.A.Nos.548-49/2009 were dismissed on October 30, 2009. Attempt made to obtain Special Leave to Appeal from the Supreme Court also failed when leave to appeal was declined.

7. Thereafter, a few persons filed petitions raising the same grievance as was raised in the representative action, but failed.

8. As regards the writ petitioner he filed O.A.No.2948/2011 which has been dismissed by the Tribunal vide impugned order dated September 22, 2011 and needless to state the signature tune of the decision passed by the Tribunal is to note the facts which we have noted hereinabove and therefore conclude that the same points are being reagitated.

9. Learned counsel for the petitioner would urge that the petitioner is similarly situated as were 9 persons who could establish that their appointment was legal and valid and that they had worked against the post to which they had been appointed.

10. Regretfully for the petitioner we do not find any averments in the Original Application pleading the number of sanctioned post of Library Attendants (this was the post to which the petitioner was appointed). We do not find any averments as to how many people were working as Library Attendants on the date petitioner was appointed as a Library Attendant. There are no averments in the Original Application that the post in question was advertised and applications were invited from all eligible persons. There are no averments as to when the Selection Committee, if at all met. There is just no indication as to what was the criteria of selection adopted. Accordingly, we find no merit in the writ petition which we dismiss in limine.

11. No costs. PRADEEP NANDRAJOG, J VEENA BIRBAL, J JANUARY 14 2013
srb

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