

Gnct of Delhi and ors. Vs. Rahul Dev

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Court : Delhi

Decided On : Apr-29-2013

Judge : Pradeep Nandrajog

Appellant : Gnct of Delhi and ors.

Respondent : Rahul Dev

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: April 29, 2013 + WP (C) 2627/2013 GNCT OF DELHI & ORS. Represented by:Petitioners Ms.Avnish Ahlawat, Advocate with Ms.Latika Chaudhary, Advocate versus RAHUL DEV Represented by: Respondent Mr.Raman Duggal, Advocate CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MR. JUSTICE V.KAMESWAR RAO PRADEEP NANDRAJOG, J.

1. Relying upon paras 19, 20 and 24 of the decision reported as (2000) 1 SCC 12.Anil Kumar Gupta & Ors. Vs. MCD & Ors.; and distinguishing the decision of the Supreme Court reported as (2001) 2 SCC 36.Indian Airlines Ltd. & Ors. Vs. S.Gopalakrishnan, vide impugned decision dated January 23, 2013, interpreting the essential qualifications and experience required to fill up the post of Instructor (Maths) the Tribunal has held that the respondent was duly qualified as also eligible for the post in question notwithstanding there being an overlap in the period of experience and the diploma obtained by the respondent.

2. The essential qualifications and experience for the post were a Matriculation or equivalent degree and a diploma in Mechanical Engineering with one year practical experience in an Engineering Workshop of repute or a years training at the Central Training Institute.

3. The experience certificate dated August 22, 2007 issued by an Engineering Workshop of repute certified that respondent had been working with the institute since July 10, 2006, and undisputedly the respondent had obtained a diploma in Mechanical Engineering on June 19, 2007.

4. As per the petitioner the practical experience of one year had to follow after diploma was obtained.

5. In Anil Kumar Guptas case (supra), following the law declared in the opinion reported as (1995) Supp. (3) SCC 33.Subhash Vs. State of Maharashtra, the Supreme Court was considering a parimateria provision where essential educational qualification was a degree and experience required was of two years. It was held that since the Rule did not state that the two years experience had to be after degree was obtained, it hardly mattered whether the experience was before obtaining the degree or the two periods overlapping.

6. In S.Gopalakrishnans case (supra), with reference to the decisions reported as (1992) Supp. (1) SCC 58.N.Sureshnathan & Anr. Vs. UOI and (1995) 3 SCC 33.Gurdayal Singh & Anr. Vs. State of Punjab the Supreme Court opined that wherever an additional qualification or experience was prescribed it would only mean acquiring experience after obtaining the necessary qualification.

7. Suffice would it be for us to note that on the same subject we are finding two views expressed by the Supreme Court, and a third possible view could be that if the past practice consistently followed was to insist upon experience following acquisition of a degree, on stating and establishing said fact, the Department could insist that its Rule must be understood to mean that experience had to succeed the degree obtained.

8. It is settled law that if on a proposition of law two views are possible, a writ court would not substitute the view taken by the Court of first instance.

9. It is not the case of the petitioners that in the past the Department had been interpreting the Rule as is propounded by the petitioners.

10. The view taken by the Tribunal is as per the law declared by the Supreme Court in Anil Kumar Guptas case and notwithstanding there being an opinion of the Supreme Court which takes a contrary view, we do not interfere with the impugned decision for the reason two views were possible and the Tribunal had to adopt one.

11. The writ petition is dismissed but without any orders as to costs. (PRADEEP NANDRAJOG) JUDGE (V.KAMESWAR RAO) JUDGE APRIL 29 2013 mamta

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