

PETITIONER:
DR. H.S. GUPTA

Vs.

RESPONDENT:
THE CHAIRMAN, BOARD OF GOVERNORS, I.I T, DELHI & ORS.

DATE OF JUDGMENT: 08/07/1997

BENCH:
G.N. RAY, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:
THE 8TH DAY OF JULY, 1997

Present:
Hon'ble Mr. Justice G.N. Ray
Hon'ble Mr. Justice G. B. Pattanaik

Appellant in person.
Mr. Maninder Singh, Advocate for the respondents.

J U D G M E N T

The following Judgment of the Court was delivered:

J U D G M E N T

G.N. RAY, J

Leave granted. heard the appellant appearing in person and the learned counsel for the respondents. This appeal is directed against the order dated January 15, 1988 passed by the Division Bench of Delhi High Court in C.W.P No. 109 of 1988.

The appellant moved a writ petition under Article 226 of the Constitution of India in Delhi high Court which was numbered as C.W.P NO . 109 of 1988 assailing the decision of the Indian Institute of Technology, Delhi as Contained in memo No. 1303 dated April 17, 1986 rejecting the representation of the appellant for the post of Senior Scientific Officer (Grade I) and Memo No 8553 dated March 25, 1987 and Memo No. 1639 dated 18.5.1987 rejecting the appellants's further representation and also assailing the decision of the respondents in not calling the appellant for interview on January 15, 1988 for the post of Assistant professor in the civil engineering department. By the impugned order, the Delhi High Court has dismissed the writ petition.

The appellant applied for the post of Assistant Professor on July 20, 1987 in the department of Civil Engineering of I.I.T Delhi in response to the advertisement No. 11/87 (E-1). The appellant was not called for interview because his name was not short listed by the concerned authority. The appellant had also applied earlier for the post of Senior Scientific Officer (Grade I) in the said department pursuant to the advertisement No. 12/85 for such post. He has not called for interview for the said post of S.S.O (I) as he was not short listed. The appellant made representations for being excluded in the short listing for

which he was not called for interview. Such representations were rejected. The appellant sought for personal interview with the Governor of the Board of management of I.I.T. Delhi but such request was turned down.

The appellant is M.Sc in Mathematics and also a Ph.D in Mathematic. He is serving as Senior Scientific Officer Grade II in I.I.T. Delhi since 1982 in the Civil Engineering Department. The appellant joined in Civil Engineering Department of I.I.T, Delhi in 1979 under Indo-U.K. Collaboration Project on flood forecasting and the appellant has averred in the writ petition that he was selected through open advertisement and competing with other candidates including candidates having engineering degree. The appellant has stated that he has contributed in developing mathematical models in the area of Water Resources which according to the appellant, was possible with the background training and skill in the discipline of mathematics coupled with computer and technology. The appellant has contended that on line Real Time flood forecasting model developed by him is known internationally and the Institute has earned name for such model. According to the appellant, he has already taught core courses at M.Tech level of water Course Engineering and has also supervised Projects at the level of B.Tech. and M.Tech. students of Civil Engineering. The appellant also claims to have served the Civil Engineering Department of I.I., Delhi as its officer in charge of one of its laboratories for several years and has also held assignment for computer counselling to graduate students, research students and faculty colleagues. It may be indicated that the experience of the appellant as indicated by him has not been disputed.

It appears that the appellant's grievance is that the appellant is M.sc. and Ph.D. in Mathematics and even though he does not possess degree in engineering, he is fully qualified backed by long experience in the department of Civil engineering in I.I.T. Delhi to hold the post of Senior Scientific Officer grade I and also the post of Assistant Professor in the department of Civil Engineering.

The appellant is aggrieved because although as per advertisement for the post of Senior Scientific Officer Grade I (Advertisement No 12/85(E.I) in the Civil Engineering Department of I.I.T. Delhi, minimum qualification needed was good bachelor's degree in appropriate field of Science with five years' experience in research and development and the appellant squarely fulfilled the criteria, he was not short listed and called for interview even though candidate not having Ph.D degree was called for interview and selected for the post. The appellant is also aggrieved for not being short listed and called for interview for the post of Assistant Professor in the Civil Engineering Department although he was qualified for the said post.

The contention of the appellant has been seriously disputed by the respondents by filing a counter-affidavit before this Court. It has been contended by the respondents that the posts in I.I.T, Delhi are advertised and filled up depending on the actual need of the particular department and in the particular specialisation. It has been contended in the counter affidavit that the posts of Proffessor/Lecturer/ SSO in the department of Civil Engineering were advertised under the following specialisation "Structural Engineering including off shore structure solid and rock machanics, water resources engineering, transpiration systems and engineering surveyings, construction management". It has been stated in

the counter affidavit that the area of specialisation of the appellant has been water resources/forecasting and not off shore structures. Since the post of SSO in the civil engineering department was to be filled up by a person having specialisation in off shore structure, the appellant's name was not short listed by the professorial Committee of the institute duly approved by the Director of the Institute being the Chairman of the Selection Committee. It has also been contended in the affidavit that for the appointment to the staff posts in the department of civil engineering, the candidate should have engineering qualification. The appellant does not possess any degree in engineering but he is holder of M.Sc and Ph. D. Degree in Mathematics and has specialised in the area of Water Resources Forecasting. Hence, he was not called for interview. It has been stated in counter affidavit that the Selection committee selected Dr. N.K. Garg and Dr. A.K. Gossain as Assistant professors on the basis of their specialisation in water resources. Sri A.K. Jain and Sri Ashok Gupta were selected as SSO I because of their specialisation of structures including off shore structures including off shore structures. Hence, the appellant has no occasion to feel aggrieved for not being selected.

In the counter affidavit, it has been further indicated that the appellant's representation dated July 31, 1986 was addressed to the Chairman, Board of Governors of the Institute. The Board of Governors is the highest governing/executive body of the Institute. As a matter of procedure, representations addressed to the chairman of the Board of Governors or to the Board of Governors are first placed before the Grievance Committee and personal hearing is also given before such Committee and personal hearing is also given before such Committee. The appellant's grievance committee consisting of three members and personal hearing was also given to the appellant. The representation of the appellant was thereafter forwarded to the Board of Governors with the notions of the Grievance Committee and such representation was considered by the Board of Governors and was rejected. The appellant was informed about the rejection of his representation. It has also been stated in the counter affidavit that the appellant was given one more opportunity to make further representation for placing it before the Incharge of the Grievance Committee of the Board of Governors as decided by the Chairman but the appellant failed to avail of such opportunity.

So far as the Advertisement No. 11/87 for the recruitment to the post of Assistant professor in the Civil Engineering Department of the institute is concerned, it has been stated in the counter affidavit that the appellant Dr. Gupta was not called for interview because he was not possessing he basic degree in Civil Engineering. The candidates in the field of Structural Engineering including buildings science and water resources engineering were called for interview as per the advertisement having the following criteria laid down for the post of assistant Professor.

"Ph. D with 8 years of experience after B.Tech/BE. Degree in Civil Engineering inclusive of not less than three years experience in teaching. This experience will include the period spent for research leading to Ph.D. or M.Tech.M.E. with 10 years of experience after B.Tech. Degree in Civil Engineering of which not less than three years' experience in teaching." As Dr. Gupta was not holder of either Bachelor degree or Master Degree in Engineering, but he was holder of Master Degree and Ph.D Degree in

Mathematics, he lacked in basic qualification and also specialisation required for the said post. It has also been stated in the counter affidavit that the appellant was advised that he would be required to apply afresh for the post mentioned in the advertisement No. 13/89 and 17/89 which were in the specialisation of the appellant. A copy of the letter by the Director advising the appellant to apply afresh for the post of Assistant professor in the specialisation of water resources engineering has been annexed to in the counter affidavit but the appellant did not apply in response to the advertisement No. 13/89 and 17/89.

The case of the appellant was initially represented by Mr. P.P. Rao, Senior counsel, as requested by this Court in View of the fact that the appellant is appearing in person and is not fully conversant with the procedure of the court. The appellant, however, later on expressed the desire to address the Court himself and he has been given the opportunity of being heard.

It appears to us that the appellant was not called for interview on two occasions when he applied for the post of senior Scientific Officer Grade I in response to Advertisement No. 12/85 and for the post of a Assistant Professor in response to Advertisement No. 12/85 and for the post of Assistant professor in response to Advertisement No. 11/87 because according to the department, the appellant did not possess the requisite expertise which was required for the said post. It is true that for the post of Senior scientific Officer Grade I as contained in Advertisement No. 12/85, the appellant had requisite minimum educational qualification but it is the case of the department that he lacked in the specialisation in the particular field for which the Senior Scientific Officer Grade I was required. So far as the second Advertisement for the post of Assistant Professor is concerned, the qualification prescribe of the said post was Bachelor or post Graduate degree in Civil engineering and admittedly the appellant does not possess such degree. From the facts and circumstances of the case placed before this Court, it cannot be held that arbitrarily or capriciously the appellant's case had been considered and he was not short listed and called for interview on both the occasions in a designed manner. Unfortunately, when the advertisement, Nos. 13/89 and 17/89 were advertised, the appellant did not apply. We may however state that it has not been correctly contended in the counter affidavit that either for the post of Senior Scientific Officer Or Assistant Professor, unless the basic degree in Civil engineering is not possessed, a candidate cannot be considered for interview. As a matter of fact, in the advertisement No. 12/85 it was specifically mentioned that the holder of post Graduate Degree in the field of Science was eligible to apply. therefore, we do not think that there would be any difficulty for the appellant to apply in future when suitable posts with expertise in the speciality in which the appellants has long experience are to be filled up.

It may be indicated here that during the pendency of this appeal, the appellant was given liberty to apply in response to further advertisements for filling the post of senior scientific Officer Grade I/Assistant Professor Civil Engineering Department, I.I.T., Delhi without prejudice to the rights and contentions of the appellant in this appeal. the appellant applied but has not been selected. The reason has been indicated by the respondents that he did not have the experience or expertise in the particular field for

which advertisements were given. In the absence of any material on the basis of which this court can come to the finding that the case of the appellant has not been considered deliberately and in a calculated manner to ensure that he would not be selected to the post of Senior Scientific Officer Grade I/Assistant professor, we are afraid that no relief can be given to the appellant in this appeal. The appeal, therefore, fails and is dismissed.

Before we part, we may indicate that the appellant has been serving the Institute in Civil engineering Department for a number of years and has been rendering a very useful service in the department by guiding under graduate and post graduate students in the Civil Engineering department and also the research scholars. There is no manner of doubt that apart from his qualification as M.Sc, and Ph.D in Mathematics, the appellant has gained a long experience in the field in watt resources management. It will be only unfortunate if his future career is blocked for ever only on the score that he does not possess degree in civil engineering. The appellant has been selected for the post of Senior Scientific Officer Grade II by competing with the candidates having engineering degree. It will not be fair and just to deny the appellant an opening or chance of future promotion even though the appellant was selected as senior Scientific Officer Grade II as far back as in 1982. We reasonably expect that the Board of Governors of I.I.T, Delhi will keep in mind the misfortune and prejudice suffered by the appellant for not getting any suitable avenue for promotion despite his long years of service in the Institute. We have no doubt that the Board of Governors would be alive to the misery of the appellant and would see that the experience of the appellant is properly recognised so that he gets an opening for appropriate posting in promotional post either in the civil engineering department or any other suitable department by inter departmental transfer where his specialisation may be gainfully utilised in the best possible manner.