

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 5644 of 1998

R.N. GoyalAppellant (s)

VERSUS

Ashwani Kumar Gupta and Ors.Respondent (s)
(With office report)With
C.A. No. 5645 of 1998
(With office report)C.A. No. 5515 of 1998
(With appln. for permission and office report)W.P.(C) No. 552 of 2003
(With appln. for ex-parte say and office report)

Date : 16-03-2004 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE S.H. KAPADIAFor Appellant (s)/Mr. Raj Kumar Gupta, Adv.
Petitioner (s)Mr. Sheo Kumar Gupta, Adv.
in CA 5644 & petr. in Mr. Bhanu Pratap Gupta, Adv.
WP 552 & res. in 5645Mr. A.N. Bardiyar, Adv.
& 5515in CA 5645 & res.inMr. Neeraj Kumar Jain, Adv.
CA 5644 & 5515 & WP 552 for Ms. Kavita Wadia, Adv.in CA 5515 & res. in
5644 & 5645 & WP 552Mr. K.V. Mohan, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following

O R D E R

C.A. Nos. 5644 & 5645 of 1998 and W.P.(C) No. 552 of 2003:
The appeals and writ petition are dismissed. There shall be no order as to costs.C.A. No. 5515 of 1998:
The appeal is dismissed as not pressed.[Alka Dudeja] [Janki Bhatia]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

R.N. Goyal ... Appellant (s)

Versus

Ashwani Kumar Gupta and Ors. ... Respondent(s)

WITH

CIVIL APPEAL NOS.5645 & 5515 OF 1998

AND

WRIT PETITION(C) NO. 552 OF 2003

O R D E R

C.A. Nos. 5644 & 5645 of 1998 and W.P.(C) No. 552 of 2003:

In the Directorate of Industries in the State of Haryana, there is a service known as 'Group A' Service (hereinafter referred to as 'the Service') and the members of the Service are governed by the Rules, known as 'the Haryana Industries (Group-A) Service Rules, 1986' (for short 'the Rules'). At relevant point of time, the appellant in C.A. No. 5644 was holding the post of Deputy Director (Engineering Goods). Subsequently, he was promoted to the post of Technical Expert (Mechanical Engineering). The respondents herein challenged the appointment of the appellant by means of a petition under Article 226 of the Constitution of India. The High

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Court found that the said appellant did not possess the requisite qualification for being appointed as the Technical Expert (Mechanical Engineering). Consequently, his appointment was set aside and it is in this way the appellant and the State of Haryana are before us.

It is not disputed that at the relevant time the appellant was working as the Deputy Director (Engineering Goods). It is also not disputed that for appointment other than by direct recruitment, the requisite qualifications for appointment to the post of Technical Expert (Mechanical Engineering) are: (a) Graduate in Mechanical Engineering or Electrical Engineering; and (b) Five years experience as Deputy Director (Technical) Technical Specialist (for Plastic Goods).

It is further not disputed that the appellant did not have the qualification of five years' experience as Deputy Director (Technical) Technical Specialist (for Plastic Goods). Rule 7 provides that no person shall be appointed to any post in the Service unless he is in possession of qualification and experience specified in column 3 of Appendix B to these Rules in case of direct recruitment and those specified in column 5 of the aforesaid Appendix in the case of appointment other than by direct recruitment.

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The instant case was not a case of appointment by direct recruitment. It was other than the direct recruitment and, therefore, Rule 9(1)(b) of the Rules was applicable. Rule 9(1)(b) of the Rules provides thus:

"9. (1) Recruitment to the Service shall be made-

(a) ...
(b) In the case of Technical Expert (Mechanical Engineering), Technical Expert (Chemical Engineering), Technical Expert (Electronics) and Technical Expert (Textiles) -

(i) 50% by promotion from amongst Deputy Directors (Technical)/Technical Specialists for Plastic Goods/Deputy Director (Industries) having requisite specialisation provided he fulfils the academic qualifications for direct recruitment;

(ii) 50% by direct appointment; or

(iii) by transfer or deputation of any officer already in the service of any State Government or Government of India."

A perusal of the aforesaid Rule 9(1)(b) shows that only those Deputy Directors, who are either Technical or Technical Specialists for Plastic Goods or Deputy Directors (Industries) having requisite qualification are eligible for appointment to the post of Technical Expert. Further Item Nos. 17 and 18 of Appendix A of Rules do show that the post of Deputy Director (Technical) and Deputy Director (Engineering Goods) are distinct and separate.

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For the aforesaid reason, we are in agreement with the view taken by the High Court that the appellant did not possess the requisite qualification for being appointed as the Technical Expert (Mechanical Engineering). Learned counsel then challenged the validity of the Rules on the ground that it is unreasonable and violative of Article 14 of the Constitution of India. We do not find any merit in the submission where Rules framed under Article 309 of the Constitution of India, if it is for general good, causes hardship to an individual, the same could not be a ground for striking down the Rules. The Rules framed are valid and do not suffer from any vice of unreasonableness. The appeals and writ petition are, accordingly, dismissed. There shall be no order as to costs.

C.A. No. 5515 of 1998:

The appeal is dismissed as not pressed.

.....CJI.

.....J.
(S.B. Sinha)

.....J.
(S.H. Kapadia)

New Delhi,
March 16, 2004.