

Supreme Court - Daily Orders

North Delhi Municipal ... vs Kavinder on 21 July, 2020

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Rep

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No 232 of 2020

North Delhi Municipal Corporation

Appellant

Versus

Kavinder and Others

Respondent

JUDGMENT

Dr Dhananjaya Y Chandrachud, J 1 This appeal arises from a judgment and order of the Division Bench of the High Court of Delhi dated 29 November 2016. The High Court has, in exercise of its jurisdiction under Article 226 of the Constitution, affirmed a judgment and order of the Central Administrative Tribunal at its Principal Bench at New Delhi, by which the first respondent was held to be qualified for appointment to the post of Labour Welfare Superintendent.

2 An advertisement was issued for inviting applications for various posts in the Municipal Corporation of Delhi on a competitive basis. Among the posts that were advertised was that of a Labour Welfare Superintendent in the Municipal Corporation.. Signature Not Verified Digitally signed by ARJUN BISHT Date: 2020.08.06 20:07:44 IST Reason:

The qualifications and experience required for the post were prescribed as follows:

Essential Qualifications:

(1) Degree of a recognized University or Equivalent.

(2) Post-Graduate Degree/Diploma in Social Work or Labour Welfare or Industrial Relations or Personnel Management or in any other allied subject of recognized University /institution or equivalent.

Desirable:

(1) Degree in Law of a recognized University or equivalent.

(2) Experience in the field in responsible capacity of Labour Welfare/Industrial Relations/Personnel Management and/or in allied fields. 3 The selection process was conducted by the Delhi Subordinate Services Selection Board by way of written examinations. Even after the candidate had appeared for the examinations, the Board or the appellant retained the authority to cancel their candidature during the recruitment process, if she/he failed to meet the said eligibility criteria. The first respondent applied for the post and appeared in the examination conducted by the Board. He was provisionally short-listed for the Part II examination upon the declaration of the results of the Part I objective examination. He was, however, declared not to be eligible for selection.

4 Aggrieved by his non-selection, the first respondent moved the Central Administrative Tribunal (CAT) contending that he fulfilled the eligibility requirements. The Tribunal, by its judgment and order dated 20 May 2016, came to the conclusion that the first respondent fulfilled the conditions of eligibility. The first respondent holds a B.Sc. degree from Maharshi Dayanand University, Rohtak and thus, satisfied the first condition of eligibility. With regard to the second condition, the Tribunal noted that the first respondent did not claim to have a degree or diploma in Social Work or Labour Welfare, but that as a student of the MBA degree programme of Maharshi Dayanand University, Rohtak, he had studied certain subjects which had a bearing on the eligibility requirements. Accepting the contention of the first respondent, the Tribunal held that he had studied Human Resource Management and Industrial Relations in the course of the MBA degree programme. It was on this basis that the first respondent was held to be eligible and having passed the competitive examination, a direction was issued for his appointment to the post. This order of the Tribunal has been affirmed by the Division Bench of the High Court of Delhi while rejecting a writ petition instituted by the appellant.

5 The issue which falls for determination in the appeal is whether the first respondent fulfills the requirements of eligibility. The advertisement issued by the appellant specifies that the essential qualifications would consist of (i) a degree of a recognized University or equivalent; (ii) a post graduate degree/diploma in Social Work, Labour Welfare, Industrial Relations or Personnel Management or in any other allied subject of a recognized University/institution or equivalent. 6 Mr Ajay Bansal, learned counsel appearing on behalf of the appellant, submits that merely because the first respondent had studied the subjects of Human Resource Management during the course of the second semester and Industrial Relations and Labour Legislation during the course of the fourth semester of the MBA degree programme, would not lead to the inference that he possessed the essential qualifications prescribed in the advertisement. It was submitted that in the absence of the first respondent holding a prescribed qualification, both the Tribunal and the High Court have erred in issuing a direction for his appointment. 7 Opposing these submissions, Mr Kanhaiya Singhal, learned counsel appearing on behalf of the first respondent, has made an earnest effort to persuade this Court to hold that the view which has been adopted by the Tribunal and by the High Court is correct. Learned counsel submitted that a concurrent view has been taken by both the Tribunal and the High Court that the first respondent fulfilled the conditions of eligibility and this should not be

interfered with. Apart from this, learned counsel sought to urge that the eligibility requirements which were stipulated in the advertisement contemplate the holding of a post graduate degree/diploma in Social Work, Labour Welfare, Industrial Relations, Personnel Management, or in any other allied subject. He urged that the MBA degree of the first respondent should be construed as one in an allied subject, particularly having regard to the nature of the courses undertaken as a part of the MBA degree programme. In this context, he sought to draw parity between the subjects which are offered in the course of the degree in Personnel Management and the subjects which were studied by the first respondent. 8 While assessing merits of the rival contentions, we must at the outset have due regard to the basis which has been adopted by the first respondent in support of his contention that he fulfills the eligibility requirements. The categorical position of the first respondent is that during the course of the MBA degree programme, he had studied the subjects of Human Resource Management and Industrial Relations and Labour Legislation. Having regard to this position, the issue which falls for determination is whether this would lead the Court to the conclusion that the first respondent fulfills the eligibility requirements. The eligibility requirements stipulated in the advertisement are that the candidate must have a post graduate degree or diploma in (i) Social Work; or

(ii) Labour Welfare; or (iii) Industrial Relations; or (iv) Personnel Management; or (v) in any other allied subject of a recognized University/institution or equivalent. 9 The first respondent completed the MBA degree programme from Maharshi Dayanand University, Rohtak. The mark sheets which have been relied upon by the first respondent indicate that during the course of the second semester, he studied Human Resource Management as a subject. In the fourth semester, the first respondent had a course in Industrial Relations and Labour Legislation. Studying these two subjects would not lead to the conclusion that the first respondent holds a post graduate degree or diploma in the disciplines which have been specifically spelt out in the advertisement or in any allied subject. The MBA degree cannot be regarded as allied to a post graduate degree or diploma in Social Work, Labour Welfare, Industrial Relations or Personnel Management. The recruitment was being made to the service of the appellant. The advertisement did not specifically provide how equivalence was to be established between a postgraduate degree/diploma in the subjects specified in the advertisement and a postgraduate degree/diploma in an allied subject. The appellant as an employer was best suited to judge whether the degree of the first respondent was in an allied subject. Unless this assessment was perverse or contrary to the requirements prescribed, the Tribunal had no reason to interfere. We are of the view that the Tribunal was manifestly in error in holding that the first respondent was qualified merely because he studied two subjects as a part of his MBA degree programme, namely, Human Resource Management and Industrial Relations and Labour Legislation. The High Court has simply affirmed the view of the Tribunal. 10 For the above reasons, we are of the view that the findings which have been arrived at by the Tribunal and affirmed by the High Court are erroneous. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court dated 29 November 2016. In consequence, OA No 1492 of 2013 filed by the first respondent before the Central Administrative Tribunal shall stand dismissed. However, in the circumstances of the case, there shall be no order as to costs.

.....J.

[Dr Dhananjaya Y Chandrachud] .....J.

[Indu Malhotra] .....J.

[K.M. Joseph] New Delhi;

July 21, 2020

ITEM NO.104

Virtual Court 4

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No.232/2020

NORTH DELHI MUNICIPAL CORPORATION

Appellant(s)

VERSUS

KAVINDER & ORS.  
(With appln.(s) for vacating stay)

Respondent(s)

Date : 21-07-2020 These matters were called on for hearing today. CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MS. JUSTICE INDU  
MALHOTRA HON'BLE MR. JUSTICE K.M. JOSEPH For Appellant(s) Mr. Ajay  
Bansal, Adv.

Mr. Praveen Swarup, AOR Mr. Amit Singh, Adv.

Mr. Kanishk Singh, Adv.

For Respondent(s) Mr. Kanhaiya Singhal, AOR Ms. Archana Pathak Dave, Adv.

Ms. Sunita Sharma, Adv.

Mr. B. V. Balaram Das, AOR UPON hearing the counsel the Court made the following O R D E R 1  
The appeal is allowed in terms of the signed reportable judgment.

2 Pending application, if any, stands disposed of.

(CHETAN KUMAR)  
AR-cum-PS

(SAROJ KUMARI GAUR)  
BRANCH OFFICER

(Signed reportable judgment is placed on the file)