

B.N. Saxena vs New Delhi Municipal Committee And ... on 25 July, 1990

Equivalent citations: AIR1990SC2021, [1991(61)FLR357], JT1990(3)SC284, 1990(2)SCALE137, (1990)4SCC205, 1990(2)UJ408(SC), (1990)2UPLBEC979, AIR 1990 SUPREME COURT 2021, 1990 (4) SCC 205, 1990 LAB. I. C. 1614, 1990 UJ(SC) 2 408, (1990) 3 JT 284 (SC), (1991) 3 SERVLR 56, (1990) 14 ATC 881, (1990) 2 CURLR 305, (1990) 2 UPLBEC 979, (1990) 61 FACLR 357, 1990 3 JT 284, 1990 SCC (L&S) 588

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Bench: K. Jagannatha Shetty Shetty, R.M. Sahai

ORDER

K. Jagannatha Shetty, J.

1. Special leave granted.
2. The petitioner who was originally a Junior Draftsman and subsequently re-designated as Senior Draftsman is claiming promotion as Head Draftsman in the New Delhi Municipal Committee ('NDMC'). The Delhi High Court by the judgment under appeal has rejected his claim.
3. Prior to February 1973, the qualifications prescribed for the post of Head Draftsman was Matric with Diploma/Certificate in Draftsmanship from a recognised institution with three years' experience in preparing engineering drawings in an electric supply undertaking or an Engineering Manufacturing Organisation. The qualifications for the post of Junior Draftsman were, however, not prescribed. The petitioner was appointed as Junior Draftsman without any Diploma/Certificate.
4. For the first time, the NDMC by a policy decision dated February 2, 1973 redesignated Junior Draftsmen in the scale of Rs. 110-200 as Senior Draftsmen in the scale of Rs. 150-240. The Resolution, in effect, validated the recruitment of the petitioner and others similarly situated.
5. By the same Resolution, the NDMC has revised the qualifications for the post of Head Draftsman as under:

Head Draftsman: From Senior Draftsman on seniority-cum- selection basis. However, the minimum qualification should be a Diploma with a minimum of 3 years service as Senior Draftsman in the grade of Rs. 250-400 or a total of 6 years service

as Senior and Junior Draftsman. The question of outside recruitment does not arise.

6. The question is whether the petitioner possesses the prescribed qualification. The revised rules provide alternate qualifications for the post of Head Draftsman. The first part of the rule prescribes a diploma with a minimum of three years service as Senior Draftsman in the scale of Rs. 250-400. The second limb of the revised rule refers to the service rendered by the candidate. It provides for six years of service as Senior and Junior Draftsman. The first part of the rule is almost similar to the qualification prescribed prior to the amended rules. The old rule provided:

Matric with Diploma/certificate in Draftsmanship from a recognised institution with 3 years experience in preparation of Engineering Drawings in an Electric supply undertaking or an engineering manufacturing organisation.

7. The second limb of the rule was evidently to benefit all those persons who have gained sufficient experience as Senior and Junior Draftsmen without possessing any qualification. Experience gained for a considerable length of time is itself a qualification (See the observation in *State of U.P. and Ors. v. J.P. Chaurasia and Ors.* :). It would be unreasonable to hold that in addition to this considerable experience, one must also have the diploma qualification prescribed under the first part. It could not have been the intention of the rule making authority that persons who were designated as Senior Draftsmen without any Diploma qualification should acquire such diploma qualification for further promotion. Such a view would not be consistent and coherent with the revised rule and its object. We have no doubt that the second limb of the revised rule is independent of the first. The High Court seems to have erred in this aspect of the matter.

8. In the result we allow the appeal and in reversal of the order of the High Court we direct the respondent to consider the case of the petitioner for promotion to the post of Head Draftsman.

9. The petitioner is entitled to costs which we quantify at Rs. 5,000/-.