



# **Central Administrative Tribunal Principal Bench**

OA No.3220/2019

New Delhi, this the 18<sup>th</sup> day of December, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Ms. Aradhana Johri, Member (A)**

Rohit,  
S/o Shri Naresh Chandra,  
R/o D-24, Tandon Road,  
Adarsh Nagar, Delhi-110033 - Applicant

(By Advocate: Sh. Ajesh Luthra with Sh. Pramod Gupta)

vs.

1. Delhi Development Authority,  
Vikas Sadan, INA,  
New Delhi-110023  
Through its Vice Chairman,
2. Mr. Ashish Dixit,  
S/o Sh. Chander Mohan Dixit,  
R/o D-405, COSMOS Golden  
Heights Crossings Republic,  
Near Gallaria Market,  
PS Vijay Nagar, Ghaziabad  
UP-201016

- Respondents

(By Advocates: Mr. Arun Birbal for Respondent No.1 and Mr. Ujjwal Puri for Respondent No.2)

## **: O R D E R (ORAL) :**

## **Justice L. Narasimha Reddy:**

The Delhi Development Authority (DDA) issued an advertisement in December, 2018, inviting applications



for various posts, including the Junior Law Officer (JLO) in the category of Group 'B' Level 8. Five posts were notified and out of them, three were unreserved. The applicant, the 2<sup>nd</sup> respondent and various others applied for that post. The qualifications prescribed for the post of JLO are: (a) Possession of regular Degree in Law; and (b) 5 years' experience at Bar. A written test was also conducted for evaluation of the relative merit. The candidature of the applicant, however, was cancelled through an order dated 31.10.2019. It was observed that the applicant does not have the requisite experience at Bar, to his credit. This OA is filed, challenging the order dated 31.10.2019.

2. The applicant contends that he was enrolled with the Delhi Bar Council on 29.07.2011 and though he was appointed as Legal Assistant on contractual basis on 07.12.2014 by the DDA, the period from 07.12.2014 also deserves to be treated as experience at Bar. The applicant states that he continued to attend the courts and pursued the cases of the DDA and that he was not a regular employee, and accordingly he has requisite 5



years' experience at Bar. He further submits that no notice was issued to him before the order of cancellation of candidature was passed.

3. Respondent no.1, on the one hand, and the respondent, on the other hand, filed separate counter affidavits. According to them, the applicant was not qualified to apply for the post at all, inasmuch as he did not have five years' experience at Bar. They state that once the applicant joined the service of the DDA, albeit on contractual basis, he cannot continue the practice as an Advocate and thereby he would not have the requisite experience to his credit.

4. As regards the plea of violation of principles of natural justice, the respondents contend that the applicant has filed an undertaking to the effect that in case he is found not to be qualified, his candidature can be cancelled without issuing notice and that he cannot raise such a plea.



5. We heard Shri Ajesh Luthra, learned counsel for the applicant and Shri Arun Birbal and Shri Ujjwal Puri, learned counsel for the respondents.

6. The whole controversy is as to whether the applicant has the “five years’ experience at Bar” to his credit. It is a matter of record that he was enrolled on 29.07.2011. The last date of submission of the application is 05.02.2019. If he were to have continued as an advocate till he applied, there would not have been any difficulty in treating him as qualified. However, he was appointed as Legal Assistant by the DDA itself on 07.12.2014 on a monthly salary. The service conditions attached to the post are such that he is required to be in office/duty from 9.30 AM to 6 PM and that he shall sign the attendance register. With this assignment, he is precluded from practising in any court as an Advocate. Therefore, he ceased to be an advocate from 08.12.2014.

7. It may be true that the applicant was more meritorious than the 2<sup>nd</sup> respondent. Once he is

disqualified, the choice naturally falls upon the next candidate in the merit, i.e., the 2<sup>nd</sup> respondent.

8. The plea of the applicant that the impugned order was not preceded by the show cause notice would have weighed with us, had it been a case where any right that has accrued to the applicant was taken away. Except that he was under consideration, no specific right was conferred upon him. Added to that, the applicant signed an undertaking on 05.08.2019 which reads as under:-

#### “UNDERTAKING

I, ROHIT, S/o NARESH CHANDRA had appeared as UR candidate in the Computer Based Test for the post of JUNIOR LAW OFFICER held on 28.03.19 vide Roll No.1513090006. My name has been shortlisted for documents verification on the basis of marks obtained by me in the Computer Based Examination as SC/ST/OBC/UR/PwD candidate. I hereby undertake that:

1. I was in possession of the requisite qualification mentioned in the notification for the respective post on the last date of submission of application form i.e. 05.02.2019.
2. I am eligible to get the benefit of community reservation as the caste to which I belong is included in the list of reserved communities issued by the Central Government (applied to SC/ST/OBC candidates only. Please strike off if not applicable)



3. That I am eligible to get the benefits/relaxation available to PwD candidates as per Govt. of India's order.
4. That I am unable to produce the Caste/OBC Certificate/non-Creamy Layer Certificate/Medical Certificate or Caste/OBC Certificate/Non Creamy Layer Certificate/Medical Certificate produced by me is not as per prescribed format.

Therefore, I may be permitted to appear for the documents verification and interview provisionally and subsequently, if it is found that I was not in possession of the requisite qualification(s)/experience mentioned in the notification for the respective post or any of the material fact/information given by me at the time of submission of application for applying for the post is false/incorrect, then my candidature for the post may be cancelled without any further notice and I will be solely responsible for the same.

Further, I hereby undertake that I will submit the requisite certificate as per prescribed format within 30 days from the date of documents verification failing which my candidature for the post applied may be cancelled without any notice.”

9. Once he was aware that the process involved evaluation of various certificates and there is likelihood of the candidature being cancelled and the applicant expressed his readiness for that, one cannot expect a fresh notice to be issued before cancellation.



10. Reliance is also placed upon a certificate dated 07.11.2019 issued by the Bar Council of Delhi. Firstly, the certificate is equivocal, and in a way it suggests that the working of the applicant beyond 08.12.2014 can also be taken as the experience at Bar. We find it difficult to account the same. Once the applicant was precluded from practising in any court, the question of his experience beyond 08.12.2014 being treated as one at Bar does not arise.

11. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

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