

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2024
[@ SPECIAL LEAVE PETITION (CIVIL) No.16202/2023]

NTPC LTD

Appellant (s)

VERSUS

PIYUSH KUMAR SINGH

Respondent (s)

O R D E R

Leave granted.

2. Heard Mr. Naman Jain, learned counsel appearing for the appellant. The respondent is represented by Ms. Vibha Datta Makhija, learned senior counsel.

3. The matter pertains to recruitment and appointment initiated for the post of Engineers (E-2 grade) in Electrical/Mechanical/Electronics/Instrumentation disciplines for Shift Operation of Thermal Power Plant in NTPC. The advertisement (06.08.2019) stipulated the experience requirement as follows: -

"Minimum 3 years post qualification experience in Executive and/or Supervisory cadre in relevant area."

4. The respondent, belonging to the OBC category, offered his candidature and was issued an Admit Card with assigned Roll No. 20313790. He participated in the online selection

test held on 04.03.2020 and was declared successful and shortlisted for the interview to be conducted by the NTPC Board by video conferencing. The respondent was then issued a call letter for verification of his documents.

5. The respondent had produced his work experience certificate as an Assistant Engineer for the period 19.11.2015 to 07.09.2018 (about 2 years and 10 months) from Chennai Radha Engineering Works (P) Limited, as well as his experience certificate as Contract Engineer in Bharat Electronics Ltd. (BEL) with effect from 11.02.2019. Those would indicate that documents were produced which certifies that the applicant possessed the requisite 3 years' work experience, following his qualification as an Engineer.

6. However, the NTPC Authorities through their communication dated 10.11.2020 informed the respondent that he does not meet the experience eligibility criteria of 3 years, as they proposed to exclude the training period towards the experience eligibility for the respondent.

7. The aggrieved aspirant then filed a writ petition before the Delhi High Court and the learned Single Judge dismissed the Writ Petition No. 1632/2021 by declaring that the period of probation should be excluded for counting the experience. However, under the impugned judgment dated 24.05.2023, the Division Bench reversed the order of the learned Single Judge.

8. We have heard the learned counsel for the parties at length. As is seen, the Division Bench in the context of the criteria stipulated in the advertisement, adverted to the admit card and the call letter issued to the candidate and also the experience certificate produced by the candidate in support of his eligibility towards the 3 years' experience criteria stipulated in the said advertisement.

9. The learned Division Bench, after having considered the offer letter dated 28.10.2015 (Annexure P-1) and the experience certificate (dated 09.10.2018) issued by the respondent's former employers, opined that the period of probation for the appointee should be included to satisfy the requirement of the experience criteria. The Court said that distinction has to be made between probation and training and when the respondent was on probation and was drawing a regular salary, he would be deemed to have gathered the requisite experience to meet the stipulation made in the advertisement issued on 06.08.2019.

10. Adverting specifically to the advertisement, the Division Bench commented that the advertisement nowhere stipulated that the probationary period or the training period is to be excluded for the purpose of computing the total period of experience, for any candidate.

11. As we notice, the respondent was not an apprentice in the earlier organisation and was appointed on probation. His

previous employer had issued him the requisite experience certificate.

12. In the above circumstances, the view taken by the learned Division Bench in granting relief to the respondent-writ petitioner is found to be in order. The direction for the respondent's appointment from the date when others in the same batch were appointed, cannot also be faulted. The appeal accordingly is found devoid of merit and the same is dismissed.

13. Pending application(s), if any, stand closed.

.....J.
[HRISHIKESH ROY]

.....J.
[PRASHANT KUMAR MISHRA]

NEW DELHI;
MAY 16, 2024

ITEM NO.16

COURT NO.6

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s).16202/2023

(Arising out of impugned judgment and order dated 24-05-2023 in LPA No. 84/2022 passed by the High Court Of Delhi At New Delhi)

NTPC LTD

Petitioner(s)

VERSUS

PIYUSH KUMAR SINGH

Respondent(s)

(IA No.145451/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 145451/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 16-05-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Naman Jain, Adv.
Mr. R. Arunadhri Iyer , AOR

For Respondent(s) Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Raj Kishor Choudhary, Adv.
Mr. Shakeel Ahmed, AOR
Mr. Vikramjeet Singh Ranga, Adv.
Ms. Pratibha Singh, Adv.
Mr. Karan Mangain, Adv.
Mr. Parveen Gaur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stand closed.

(DEEPAK JOSHI)
ASST. REGISTRAR-cum-PS

(KAMLESH RAWAT)
ASSISTANT REGISTRAR

(Signed Order is placed on the File)