

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.....OF 2025
(@SLP (C) No.8247 of 2023)**

VINITA VERMA & ORS.

APPELLANTS

VERSUS

DEVASTOTRA PODDAR & ORS.

RESPONDENTS

**WITH
CIVIL APPEAL NOS..... OF 2025
(SLP (C) Nos.8264-8265 of 2023)**

O R D E R

1. Leave granted.

2. Heard learned counsel for the parties at length.

3. The short issue that arose for consideration before the High Court¹ was as regards eligibility of the appellants (who were respondents in the writ proceedings before the High Court) for appointment on the post of Additional Director (Technical), which is a Pay Level 10 post, against 40% quota to be filled by direct recruitment. As regards educational qualification(s) of the appellants there is no dispute that

1 1 High Court of Delhi at New Delhi

they are eligible. However, dispute is as regards their experience qualification. The advertisement under which recruitment exercise was carried out required a candidate to have a minimum of five years' experience. This five years' experience is to be in a manner as is clarified by Note 1 in the advertisement, which reads thus:

"Note 1: Out of total experience sought, two years of experience should be in *immediate lower pay level in central dearness allowance, or equivalent industrial dearness allowance scale (as applicable)* and in case of candidates working in private sector he or she shall be drawing minimum annual cost to company of Rs.9.7 lakh for last two years."

There existed a provision for relaxation, which was clarified by Note 2 in the advertisement, which reads thus:

"Note 2: Qualifications are relaxable at the discretion of the competent authority in the case of candidates otherwise well qualified"

The eligibility condition prescribed in the advertisement as well as power to relax the same is in conformity with extant statutory service regulations (i.e., Food Safety and Standards Authority of India (Recruitment and Appointment) Regulations, 2018²).

4. Admittedly, the appellants had experience of five years but their experience was as a Technical Officer (contractual), which is at Pay Level 7 whereas the post of Additional

2 2 Regulations, 2018

Director (Technical) to which they sought appointment is a Pay Level 10 post. Thus, in short, the issue was whether the appellants had two years' experience in immediate lower pay level in central dearness allowance.

5. To a common man Pay Level 7 would not be immediately lower to Pay Level 10 as in between there would be Pay Levels 8 and 9. However, in absence of any definition /explanation of "immediate lower pay level in central dearness allowance" either in the Regulations, 2018 or the advertisement, the said phrase became a subject matter of interpretation. Thus, in short, as to how the phrase "*in immediate lower pay level in central dearness allowance*" is to be construed is the bone of contention *inter se* parties.

6. The case of the appellants is that in the organization (i.e., Food Safety and Standards Authority of India³) there is no Pay Level 8 or Pay Level 9 in the technical cadre therefore, Pay Level 7 technical officer would fall in immediate lower pay level to Pay level 10. Otherwise also, it is the feeder cadre for promotion to the post of Additional Director (Technical).

7. To buttress their case, the appellants submit that the aforesaid issue was examined at the highest level of FSSAI and based on clarificatory notes appointments were made. Those

clarificatory notes indicate that the phrase 'immediate lower pay level' since not defined in the Regulations, 2018 should be taken as the one which forms the feeder cadre for the post and, therefore, as, for promotion, the feeder cadre was Pay Level 7, candidates having requisite experience at Pay Level 7 would be eligible for appointment on the post of Additional Director (Technical).

8. The learned Single Judge of the High Court took the view that since the posts in question were to be filled by direct recruitment, the eligibility would have to be determined on the basis of what was specified and since power to relax any of the provisions of the Regulations, 2018, under which the recruitment exercise was being undertaken, lies with the Central Government, and there was no relaxation by the Central Government, the clarificatory note was of no consequence and it would not make the appellants eligible, who admittedly were at Pay Level 7 which, by no means is the Pay Level immediately lower to Pay Level 10. Consequently, the learned Single Judge allowed the challenge to their appointment and held appellants ineligible for appointment to the post of Additional Director (Technical).

9. Aggrieved by the decision of the learned Single Judge of the High Court, the appellants preferred intra court appeal(s) before the Division Bench of the High Court. The appeals were

dismissed, and the order of the learned Single Judge was affirmed.

10. Aggrieved therewith, the appellants are before us.

11. The learned counsel for the appellants vehemently argued that neither the Regulations, 2018 nor the advertisement defined or explained as to what "immediate lower pay level in central dearness allowance" would mean therefore, it was for the employer/appointing authority to determine its true meaning. Once the appointing authority took a decision and interpreted the said clause in a particular way, as is clear from the clarificatory notes, and accepted the eligibility of the appellants, the High Court ought not to have interfered with such interpretation by entertaining a challenge to the appointment. More so, at the behest of writ petitioners who were lower in the order of merit.

12. It is also their case that the challenge to the appointment of the appellants was laid by those who were from the private sector and their experience would not match that of the appellants. Thus, the High Court ought to have declined the prayer of the writ petitioners.

13. It was also argued that where eligibility criterion is such that it admits of more than one interpretation, if a plausible interpretation is accorded to it, the rules of the game are neither changed nor altered because such an

interpretation merely clarifies the existing position. Here, for purposes of promotion the feeder cadre was Technical Officer, which is a Pay Level 7 post, and there existed no Technical Post in the Organization (FSSAI) at Pay Level 8 or 9, therefore, the clarificatory note justifiably declared Technical Officer Pay Level 7 as the immediately lower Pay Level. In such circumstances, according to the appellants, the High Court fell in error by entertaining the challenge and allowing the writ petition of the original writ petitioners.

14. Per contra, learned counsel for the respondents submitted that under Regulation 17 of Regulations, 2018, the power to relax any of the provisions of the said Regulations lies with the Central Government, which is the competent authority. Further, Regulation 18 of Regulations, 2018 provides that if any question arises relating to the interpretation of those Regulations, it would be referred to the Central Government for examination and the decision of the Central Government shall be final. Thus, if eligibility of the appellants was in question and to determine eligibility interpretation of any of the Regulations was required, it had to be by the Central Government and not by FSSAI. Since, according to them, the Central Government has not accepted their interpretation, the order passed by the High Court does not call for interference.

15. In addition to above, it was submitted on behalf of

respondents that even if it is assumed that in FSSAI there were no substantive posts at Pay Level 8 or Pay Level 9, it would not make a difference as the post in question was to be filled by direct recruitment for which a person from outside FSSAI could also apply if he held the requisite qualification. The above position is fortified from use of the phrase "central dearness allowance".

16. We have considered the rival submissions and have perused the materials on record including the relevant provisions of Regulations, 2018. What is clear from the record is that recruitment to the post in question (i.e., Additional Director (Technical)) had to be from two sources. One by promotion and the other by direct recruitment. No doubt, for purposes of promotion, the feeder cadre was Technical Officer, a Pay Level 7 post. However, the recruitment in question is not in respect of posts which were to be filled by promotion. The dispute is regarding 40% posts which were to be filled by direct recruitment. What is important is that for direct recruitment even candidates from outside FSSAI could participate if they were otherwise eligible under the Regulations, 2018 and terms of the advertisement. In such circumstances, even if FSSAI had no Pay Level 8 or Pay Level 9 officers, there could have been induction from sources other than FSSAI, therefore FSSAI could not have interpreted or clarified the Regulations, 2018, or

the terms of the advertisement, to treat Pay Level 7 candidate as one at immediately lower pay level to Pay Level 10. Such a treatment, in our view, tantamounts to relaxing the eligibility criteria prescribed by the Regulations, 2018 and the advertisement, which could have been done by the Central Government alone in view of Regulation 17. Otherwise also, if this relaxation exercise had to be carried out, it ought to have been done prior to the advertisement and brought to public notice so that any candidate falling within the relaxed zone of consideration does not miss his chance of participation under the belief that he is ineligible.

17. Even interpretative exercise, if required, under Regulation 18, had to be carried out by the Central Government. Therefore, if there was any confusion regarding interpretation of the phrase used in the Regulations, 2018, which was repeated in the advertisement, governing eligibility of a candidate, interpretational exercise ought to have been at the level of the Central Government.

18. Interestingly, the Central Government has not interpreted the phrase "in immediate lower pay level in central dearness allowance" in the manner suggested by the appellants or by FSSAI. In fact, according to the counsel representing the Central Government, in the context of appointment on Pay Level 10 post, the aforesaid phrase is to be interpreted as Pay

Level 9.

19. In the light of the foregoing discussion, we do not find any reason to interfere with the impugned order(s) passed by the High Court. The appeals are, accordingly, dismissed.

20. It is, however, clarified that if the appellants were appointed on the post pursuant to their selection and have continued as such on account of interim order(s) of the High Court or this Court, emoluments attached to that post, thus far released in their favor, shall not be recovered from them.

21. Pending application(s), if any, shall stand disposed of.

.....J.
[MANOJ MISRA]

.....J.
[UJJAL BHUYAN]

New Delhi;
31st July 2025

ITEM NO.16

COURT NO.15

SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s).8247/2023

VINITA VERMA & ORS.

Appellant(s)

VERSUS

DEVASTOTRA PODDAR & ORS.

Respondent(s)

IA No. 81880/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 165675/2023 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

WITH

SLP (C) Nos. 8264-8265 of 2023 (XIV)

IA No. 82120/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

Date : 31-07-2025 These matters were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) :

Mr. Gopal Sankarnarayan, Sr. Adv.
Mr. Varun Chandiok, Adv.
Mr. Alok Kumar, AOR
Ms. Anubhi Goyal, Adv.
Mr. Tushar Shrivastava, Adv.
Ms. Shreya Nair, Adv.

Mr. Govind Jee, AOR
Mr. Omanakuttan Kk Kk, Adv.
Ms. Rambha Singh, Adv.
Mr. Akhilesh Kumar Mishra, Adv.

For Respondent(s) :

**Mr. Abhimanyu Walia, Adv.
Ms. Shweta Priyadarshini, AOR
Mr. Aryan Malik, Adv.**

**Mr. Sudarshan Lamba, AOR
Mr. Vikramjit Banerjee, A.S.G.
Mr. Saransh Kumar, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Mr. Raman Yadav, Adv.
Mr. Chitvan Singhal, Adv.**

Mr. Amrish Kumar, AOR

**Mr. Varun Chandiok, Adv.
Ms. Anubhi Goyal, Adv.
Mr. Alok Kumar, AOR**

**Mr. Pankaj Kumar, AOR
Mr. Sandeep Kumar Singh, Adv.
Mr. Shubhendu Saxena, Adv.
Mr. Anuvrat Singh, Adv.**

**Mr. Govind Jee, AOR
Mr. Omanakuttan Kk Kk, Adv.
Ms. Rambha Singh, Adv.
Mr. Akhilesh Kumar Mishra, Adv.**

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

- 1. Leave granted.**
- 2. Appeals are dismissed in terms of the Signed Order placed on the file.**
- 3. Pending application(s), if any, shall stand disposed of.**

**(RASHI GUPTA)
COURT MASTER (SH)**

**(SAPNA BANSAL)
COURT MASTER (NSH)**