
(2009) 08 MP CK 0104

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3149 of 2009 (s)

Avtar Singh Yadav

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 20-08-2009

Acts Referred:

Citation : (2009) 4 MPLJ 557

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Advocate : M.I. Khan, for the Appellant; M.S. Dwivedi, Panel Lawyer, for the Respondent

Judgement

Shantanu Kemkar, J.

The petitioner had applied for the post of Constable in pursuance of the advertisement (Annexure P/I) issued by the respondents inviting applications for making appointment on the post of Constables in the Home (Police) department of Government of M.P.

The petitioner was selected for being appointed on the said post of constable and was placed by the respondents at Serial No. 14 in the select list.

On 18-3-2009 (Annexure P/4) the petitioner was informed by the respondents that his name has been removed from the select list on account of his non fulfilment of condition No. 2 of the advertisement (Annexure P/I) requiring the candidate to possess a valid registration certificate of Employment Exchange having validity 90 days prior from 24-1-2009 which was the last date of submission of the application forms.

On receipt of the said letter dated 18-3-2009, the petitioner approached to the office of the District Employment Officer, Datia who had issued him the certificate of registration seeking clarification from him about the validity of the said registration certificate. The petitioner was supplied a clarification letter dated

30-3-2009 (Annexure P/5) by the District Employment Officer, Datia making it clear that his registration certificate was valid from 7-11-2005 for three years and on its renewal vide order dated 1-1-2009 it is deemed to have been renewed for a further period of three years from November, 2008.

Along with the said clarification letter dated 30-3-2009, the petitioner submitted an application dated 1-4-2009 (Annexure P/6) before the respondents praying for reconsideration of the matter in the light of the said clarification. However his application dated 1-4-2009 was rejected by the respondents vide order dated 17-4-2009 (Annexure P/7) reiterating the same ground about his non fulfilment of condition No. 2 of the advertisement. Feeling aggrieved the petitioner has filed this petition.

The contention of the petitioner is that he was having a registration certificate of Employment Exchange which was valid upto November, 2008. The said certificate was renewed on 1-1-2009 with retrospective effect for three years w.e.f. November, 2008. In the circumstances, in view of the clarification letter dated 30-3-2009 issued by the District Employment Officer clarifying that in case renewal of registration is applied within two months from the date of its expiry, the date and number of original registration including the seniority of the original registration is retained. In the said clarification letter dated 30-3-2009 it was further made clear that the petitioner having applied within two months of the expiry of his registration certificate which was valid upto November, 2008 his original seniority and number shall remain intact on its renewal vide order dated 1-1-2009.

According to the petitioner, his registration was valid from 7-11-2005 till November, 2008 and thereafter on its renewal on 1-1-2009 for a period of three years it was having validity of three years from November, 2008 with the same seniority. In the circumstances according to the petitioner, removal of his name from select list by the respondents applying condition No. 2 of the advertisement holding that it was not valid prior to 90 days from 24-1-2009 is wholly misconceived.

The respondents have filed reply and have tried to justify the action by which the petitioner's name has been removed from the select list. It is stated by the respondents that the petitioner had submitted the registration certificate which was valid only upto November, 2008, in the circumstances in view of condition No. 2 of advertisement the decision was taken by the respondents to remove his name from the select list.

Having heard Learned Counsel for the parties and on perusal of the registration certificate (Annexure P/3) and the clarification certificate dated 30-3-2009 issued by the District Employment Officer in my considered view the impugned orders dated 18-3-2009 (Annexure P/4) and the order dated 17-4-2009 (Annexure P/7) are liable to be quashed.

It is not in dispute that the petitioner's registration was renewed on 1-1-2009

with retrospective effect making it valid for a further period of three years from November, 2008. Prior to November, 2008 also it was valid for three years from 7-11-2005. In the circumstances on 24-1-2009, the last date of making of the application as per the advertisement (Annexure P/I) the petitioner's registration was valid and was very much alive even 90 days prior to the last date for submission of the application form as required under condition No. 2 of the advertisement. The respondents without paying any heed to the clarification letter dated 30-3-2009 by which it was specifically made clear by the District Employment Officer that the petitioner having applied for renewal of the certificate within two months of the expiry of the registration certificate his original seniority and original number is intact, have arbitrarily passed the order deleting the petitioner's name from the select list.

Accordingly, the action of the respondents treating the petitioners certificate to be not in conformity with condition No. 2 of the advertisement by ignoring the clarification certificate dated 30-3-2009 cannot be sustained.

In view of the aforesaid, the petition is allowed holding the petitioner to be fulfilling condition No. 2 of the advertisement the impugned orders (Annexures P/4 and P/7) are hereby quashed. The respondents are directed to treat the petitioner to be a duly selected candidate at Serial No. 14 of the select list for the post of Constable and to proceed accordingly. No orders as to costs.