

(2013) 04 DEL CK 0242

In the Delhi High Court

Case No : Writ Petition (C) No. 3103 of 2012

Chander Shamsher Singh

APPELLANT

Vs

Indian Railways Catering and Tourism Corpn. Ltd.

RESPONDENT

Date of Decision : 04-04-2013

Acts Referred:

Citation : (2013) LabIC 2808

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : Pradeep Chandel, for the Appellant;

Final Decision : Dismissed

Judgement

Valmiki J Mehta, J.—No one appears for the respondent in spite of service. I have, therefore, heard the counsel for the petitioner and am proceeding to dispose of the petition. By this writ petition, petitioner prays for direction to the respondent-Indian Railways Catering & Tourism Corporation to appoint the petitioner as an Executive, the post to which petitioner applied pursuant to the advertisement dated 2.5.2011.

2. The petitioner has been denied the appointment on the ground that the petitioner was only provisionally called for the interview subject to his furnishing experience certificate up to 23.12.2011 but since the petitioner failed to submit the same, hence the petitioner was declared ineligible for appointment.

The RTI query of the petitioner in this regard is as under:

1. Total marks obtained by me in written exam and personal interview.

The response of the respondent in terms of its letter dated 3.4.2012 is as under:

Para 1: The total marks obtained by you in written test is 42.61 marks (out of 70 marks) and in interview is 12 marks (out of 30 marks). However, you were found ineligible as you had been allowed the interview provisionally subject to your

production of experience certificate up to 23.12.2011. But you have not submitted the same, hence you were declared ineligible.

3. Counsel for the petitioner argues that the petitioner complies with the requirements and, therefore, he should have been appointed. Let us, therefore, see the requirements of appointment. The same are as under:

The aforesaid shows that for the requirement of experience, it is necessary that the experience must be of three years in a reputed organisation with a pay of Rs. 2.5 Lakhs per annum. The question is did the petitioner have a pay of Rs. 2.5 Lakhs per annum for three years.

4. Counsel for the petitioner has relied upon the documents filed at pages 23 and 24 of the paper-book which are the salary slips of two private organisations with which the petitioner has/had worked. First is of "Le Passage to India Tours & Travels Private Limited" and the other is of "Thomas Cook (India) Limited".

5. The first pay slip is of July, 2009 of Le Passage to India Tours & Travels Private Limited and which shows that the monthly pay of the petitioner was Rs. 23,930/-. However, this would be the pay only in July, 2009 and not from 1.11.2007 when the petitioner was appointed by Le Passage to India Tours & Travels Private Limited.

This case was listed yesterday and on the request of the petitioner that he will file the necessary documents, this case was listed today for arguments. Though no documents have been filed today in the Court, the counsel for the petitioner filed the appointment letter dated 11.11.2007 of Le Passage to India Tours & Travels Private Limited. This appointment letter shows that the petitioner's salary at the time of his appointment on 1.11.2007 was only Rs. 9150/- per month, i.e., much below Rs. 2.5 Lakhs per annum. Therefore, for the period of employment of 20 months with Le Passage to India Tours & Travels Private Limited it cannot be said that the petitioner had a pay package of Rs. 2.5 Lakhs per annum at all points of time from 1.11.2007 to July, 2009.

In fact, in my opinion, the petitioner is trying to be clever by half because besides not filing the salary slips from 1.11.2007 till July, 2009 and which is necessary to know the yearly emoluments of Rs. 2.5 lacs per annum, when the appointment letter dated 11.11.2007 was filed in Court during the hearing, the salary was shown at Rs. 9150/- per month, i.e. annual salary would surely be less than Rs. 2.5 Lakhs per annum. Therefore, obviously the petitioner deliberately has not filed documents showing the salary payment right from 1.11.2007 to July, 2009, which was the period of employment with "Le Passage to Indian Tours and Travels Pvt. Ltd." and therefore petitioner has not shown his annual pay package of Rs. 2.5 lacs for this period.

6. So far as the pay slip of Thomas Cook (India Limited) is concerned, the same shows that the petitioner only had a salary of Rs. 20,325/- per month, i.e., less than Rs. 2.5 Lakhs per annum. Even this salary slip is only for April, 2011 and it

is not known what was the salary of the petitioner from 1.2.2010 when he was appointed with Thomas Cook (India) Limited till April, 2011, for which month only the salary slip has been filed.

7. It is thus quite clear that the petitioner is only conveniently filing some documents but not all the documents. Obviously, this strategy would also have been employed even with the respondent, and therefore, the respondent did not give him employment.

8. Therefore, it is clear that the petitioner did not meet the requirement of having salary of Rs. 2.5 Lakhs per annum for three years, and therefore failed to meet the qualification required, and hence was not entitled to seek employment with the respondent. Writ petition is accordingly dismissed, leaving parties to bear their own costs.