
(2013) 08 P&H CK 0614
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 2105 of 2011

Dinesh Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0614

Hon'ble Judges : Sanjay Kishan Kaul, C.J; Augustine George Masih, J

Bench : Division Bench

Advocate : Raman Sharma and Mr. A.K. Singh Goyat, for the Appellant; Tapan Kumar, Advocate for Respondent No. 1, Mr. Ashish Kapoor, Advocate for Respondent Nos. 2, 3 and 5, Mr. S.K. Garg Narwana and Mr. Ravinder Singh Sheokand, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner (appellant herein), who was a practicing lawyer, had approached this Court through a writ petition, challenging selection of respondent No. 4 for dealership for setting up a retail petrol outlet at Narwana, which stands dismissed vide order dated 13.9.2011 by the learned Single Judge, resulting in filing of the present appeal, challenging the said order. It is the contention of counsel for the appellant that selection of respondent No. 4 is not based upon any criteria and is also liable to be set-aside on the grounds of malafides and favouritism for the reason that father of respondent No. 4 was a Chief Judicial Magistrate and had exercised influence to secure this dealership for his son. On merits, it has been asserted that the appellant was resident of Narwana whereas respondent No. 4 was resident of Rohtak and, therefore, preference should have been given to the appellant over and above respondent No. 4 while making selection. Assertion has further been made that the appellant is a Graduate whereas respondent No. 4 is mere a matriculate and, therefore, was better qualified, entitling him to the dealership over and above respondent No. 4.

2. Counsel for the respondents, on the other hand, contend that selection process was based upon a criteria and parameters for assessing the respective relative merit of the candidates. All applicants were considered, assessed and evaluated on the basis of the said criteria. The Committee, which was formulated for the said purpose, had accordingly granted marks and respondent No. 4 has scored higher marks than the appellant and he has been graded relatively higher than the appellant, which has resulted in his selection. As regards the assertion that father of respondent No. 4 had exercised his influence to secure dealership for his son, there is no evidence qua that on record. It has been asserted that had other things been equal, the person of the same district where the dealership is to be established, would have been granted preference but since the interviewers had marked respondent No. 4 relatively higher than the appellant, the choice obviously fell on respondent No. 4 and he has rightly been awarded the dealership.

3. In any case, it has been submitted that the appellant stands selected and appointed as a Labour Officer and, therefore, would now at this stage not be interested in pursuing the dealership.

4. We have considered the submissions made by counsel for the parties and with their assistance have gone through the records of the case.

5. As is apparent from the pleadings, parameters for assessing the relative merit of the candidates were spelt out and the candidates, on the basis of personality/business ability/salesmanship, capability to arrange finance, education and general level of intelligence, infrastructure and general assessment, were assessed by the Committee. There were three interviewers and according to the record, all the three Members have relatively graded respondent No. 4 higher than the appellant. Thus, respondent No. 4 had better merit than the appellant. If that be so, the assertion of the appellant that he belongs to District Narwana whereas respondent No. 4 belongs to Rohtak and, therefore, should have been given preference, would not hold the field as the said benefit could accrue to the appellant only if other parameters would have been equated. There is nothing on record, which would suggest that father of respondent No. 4 had any role to play in the manner of selection or selection of said respondent for allotment of dealership.

6. In view of these facts, we find that there is no infirmity in the order dated 13.9.2011 passed by the learned Single Judge, which would call for any interference by this Court. The present appeal stands dismissed.