
(2012) 11 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 6458 of 2012 (O and M)

Dr. Parikshit Bansal and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 30-11-2012

Acts Referred:

Citation : (2013) 3 LLN 373 : (2013) 1 SCT 468

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Kapil Kakkar, for the Appellant; Gurpreet Singh, Advocate for the Respondent Nos. 1, 2 and 4 to 7 and Mr. Navdeep Singh, Advocate for the Respondent No. 3, for the Respondent

Judgement

Rajesh Bindal, J.—The petitioners have approached this court challenging the appointment of respondent No. 3 as Registrar of the National Institute of Pharmaceutical Education and Research, Mohali, (for short, "the NIPER"). Briefly the facts are that the respondent NIPER issued advertisement No. 02/2011 for selection to the post of Registrar on 29.1.2011. In response thereto, the candidates applied. After considering the eligibility of the applicants, the interview was held and finally respondent No. 3 was selected. It is his appointment which is under challenge. The petitioners were not the candidates for the post, however, they have approached this court for issuance of a writ of Quo - Warranto on the plea that respondent No. 3 was not eligible for the post in question.

2. Learned counsel for the petitioners submitted that in the advertisement for the post of Registrar certain basic qualifications and the experience were required. Any one holding the qualifications and experience, as prescribed, was to be eligible. In case any candidate is not holding qualification as prescribed but claims that the qualification held by him be treated equal, the authority was required to apply its mind and there had to be a criteria fixed for the purpose and a conscious decision taken to equate qualification and experience of a

candidate with the prescribed qualification and experience in the advertisement, as the experience required for the post could be either on a post specified or on an equivalent post.

3. Learned counsel for the petitioners contended that though respondent No. 3 was having more than 55% marks in post graduation but his administrative experience was not as was required in the advertisement. He never worked on the post of Deputy Registrar for a period of 8 years. He further submitted that the selected candidate did not have requisite experience after getting his degree of post graduation. He further submitted that simultaneously the post of Deputy Registrar was advertised which required minimum qualification as post graduation and 8 years experience. In the present case, out of 15 years of administrative experience, 8 years was required on the post of Deputy Registrar or equivalent which necessarily means that the experience has to be after attaining the degree of post graduation.

4. Learned counsel for the petitioners further submitted that the selected candidate was considered eligible only in terms of clause 2 (iii) of the advertisement but in fact he did not fulfill that criteria. His selection was a result of favouritism. There were other meritorious candidates fulfilling the requisite qualifications and even better qualified, but still were ignored. It was further submitted that though the condition was prescribed in the advertisement that the qualification could be relaxed but still in the present case there is nothing on record to show that any conscious decision was taken to relax the qualification in favour of the selected candidate and the reason therefor, which should be available on record. He further submitted that even the decision for relaxation of qualification could be by the Board and in the present case, no such conscious decision was taken by the Board. It was not a case that no other eligible candidate was available. The relaxation otherwise also could be in certain special circumstances.

5. Learned counsel for the petitioners further argued that no criteria was formulated to adjudge inter se merit of the candidates. In the absence thereof, the selection deserves to be set aside on this ground alone. The criteria had to be laid down even before issuance of advertisement but in the present case the same could be said to be tailor made considering the fact that the number of applicants were not substantial. The rules required that a merit list had to be prepared and recommendations made in terms thereof. As is evident in the present case from document Annexure P-5, only the name of respondent No. 3 was recommended for selection, preparing no merit list. It clearly shows biasness and arbitrariness in the process of selection.

6. Learned counsel for the petitioners further contended that the experience which was claimed by respondent No. 3, cannot be equated with the experience required as per the advertisement. Respondent No. 3 had merely worked in the pay scale of Deputy Registrar for a period of three years otherwise he was drawing pay in a scale less than the scale meant for Deputy Registrar. Still

further the contention is that the post on which respondent No. 3 worked in Air Force establishment cannot be equated with administrative experience. The kind of establishment in the Armed Force cannot be equated with the civil administration especially with reference to the requirement of research institute like the NIPER, where the job required is altogether different. In support of this argument, reliance was placed upon a judgment of this court in CWP No. 5171 of 2011 - Lalit Sood v. Punjab University, Chandigarh decided on 22.3.2011.

7. In support of his plea that in case the candidate, who has been selected, is not qualified as per the rules applicable, any one, even if he is not a candidate, can challenge the same, learned counsel for the petitioners placed reliance upon judgment of Hon'ble the Supreme Court in The District Collector and Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and Another Vs. M. Tripura Sundari Devi, In support of other contentions, learned counsel for the petitioners placed reliance upon Subhash Chand Jain Vs. Delhi Electricity Supply Undertaking and Others, Yogesh Kumar and Others Vs. Government of NCT, Delhi and Others, , and Dr. Sudha Suri, Professor and Head of Department of Radiology, PGI, Chandigarh Vs. Union of India (UOI) and Others

8. In response to the contentions raised by learned counsel for the petitioners, learned counsel for the official respondents submitted that the writ petition is not maintainable considering the fact that the petitioners are not unsuccessful candidates. In fact, disciplinary proceedings were initiated against them from time to time and the writ petition has been filed only to settle score with respondent No. 3, who in his official capacity is required to put up the agenda before the Board which included the proceedings for action against the petitioners. A writ of certiorari could be maintainable and not a writ of Quo - warranto. The same is maintainable only in case a person occupying the post is not eligible. But in the present case, it cannot be established that respondent No. 3 is not eligible for the post. He applied in response to the advertisement issued, was considered eligible and after interview, was recommended for appointment by the Selection Committee consisting of Director and Dean of NIPER and two experts, who were none else than the Director of USER, Mohali and Director, IMTECH, Chandigarh.

9. Coming to the eligibility of respondent No. 3, learned counsel for the official respondents submitted that the advertisement required at least 55% marks in post graduation. Respondent No. 3 passed his MBA from Punjabi University, Patiala, in the year 2004 with 68% marks. Hence, he was qualified. As far as the experience required for the post is concerned, there were three different options available. The case of respondent No. 3 was considered under third option i.e. 15 years of administrative experience, of which 8 years has to be as Deputy Registrar or on an equivalent post. In the present case, respondent No. 3 was working in the Air Force on administrative side (Adm). As per the advertisement the kind of experience required was in the fields of Administration, Finance & Accounts, Examination, Engineering and Stores & Purchase. Respondent No. 3 in

the present case had worked on administrative side as Class-I Gazetted Commissioned officer. He worked on different posts where his job profile was to deal with finance & accounts matters, engineering, administration, public relation, establishment, examination, etc. Hence, it cannot be termed that the selected candidate did not possess the requisite qualification. It was submitted that in the present case, the official respondents have not relaxed any of the condition of eligibility in favour of respondent No. 3, rather he was found eligible in terms of the conditions prescribed in the advertisement.

10. Learned counsel for the official respondents further submitted that it is totally misnomer to state that experience of 8 years as Deputy Registrar or on any equivalent post is required after getting the degree of post graduation. The rules do not prescribe any such qualification. He further submitted that respondent No. 3 in the present case was drawing pay equivalent to the Deputy Registrar ever since he joined the service as Flying officer. Otherwise also for the purpose of equivalence, the pay drawn by an employee is not the only criteria rather it is the last thing to be considered. The relevant is the job requirement of two posts. In support of his arguments, reliance was placed on judgment of Hon'ble the Supreme Court in S.I. Rooplal and Another Vs. Lt. Governor Through Chief Secretary, Delhi and Others,

11. Learned counsel for the official respondents further submitted that the selection committee is provided under the Rules which consists of Director and Dean of the NIPER and two experts. After the applications were received, the Committee was constituted for short listing of candidates and determining their eligibility. In terms of Rule 4(1) (d) of the Recruitment Rules for recruitment to faculty/scientific/technical/ministerial and other posts (for short, "the Rules"), a Screening Committee could adopt its own criteria for short listing. In the present case, total 21 applications were received, out of which only 7 candidates were found eligible. These were short listed and called for further process of selection.

12. Learned counsel for the official respondents further argued that in the present case the criteria was fixed by the Selection Committee before the interviews were conducted. They were awarded marks on the basis of educational qualifications and the experience. The criteria as well as the marks awarded to each candidate were kept in a sealed cover which forms part of the record produced in the court. However, he could not point out from the record any deliberation of the Screening Committee or the Selection Committee for a decision on record to show how the experience of respondent No. 3 while working with Air Force was considered equivalent to the experience required as per the advertisement.

13. While adopting the contention raised by learned counsel for the official respondents, learned counsel for respondent No. 3 submitted that in the petition the comparison of respondent No. 3 with regard to qualification and experience is sought to be made with another candidates, who though unsuccessful are not aggrieved against the selection. The reason for which the petitioners have

approached this court has already been submitted. It is only because disciplinary proceedings were initiated against the petitioners and with a view to settle the score with respondent No. 3 and demoralizing him from discharging his duties, the selection has been challenged. In support of his arguments including the maintainability of the writ petition, reliance was placed upon judgments of Hon"ble the Supreme Court in B. Srinivasa Reddy Vs. Karnataka Urban Water Supply and Drainage Board Employees" Association and Others, and Steel Authority of India Ltd. and Others Vs. Dibyendu Bhattacharya,

14. In response to the contentions raised by learned counsel for the respondents, learned counsel for the petitioners submitted that merely because some action was sought to be taken against the petitioners, they cannot be deprived of their legal remedy against any wrong action. It was further submitted that as per the Rules the appointing authority is the Board of Governors. But in the present case, respondent No. 3 was appointed without even approval of his appointment by the Board of Governors. It has not been approved till date.

15. In response to the aforesaid contention raised by learned counsel for the petitioners, learned counsel for the official respondents submitted that the appointment of respondent No. 3 has been approved by the Board of Governors. Hence, grievance of the petitioners to that extent does not survive.

16. Heard learned counsel for the parties and perused the paper book as well as the records produced by counsel for the official respondents.

17. Before I proceed to deal with respective contentions raised by learned counsels for the parties, it would be appropriate to refer to the relevant provisions of the Rules, the National Institute of Pharmaceutical Education and Research Act, 1998 (for short, "the Act"), and Statutes framed thereunder. The relevant provisions are as under:-

Para 3.6 of the statutes

3.6 Selection Committee.

Quorum: 50% of the total strength of the members in addition to the chairman.

There shall be selection committees for making recommendations for the appointment to the post of Professors, Associate Professors, Assistant Professors, Registrar, Principal Library and Information Officer, Principal Scientific Officer and other posts. The Selection Committee for appointment to the posts specified in column 1 of Table 1 below shall consist of the persons specified in the corresponding entry in column 2.

Note 12 - Director with the approval of the Board can relax the eligibility conditions in respect of any of the posts mentioned in paragraph 3.6

Rules for Recruitment to Faculty/Scientific/Technical/Ministerial and other posts

4. Rules for Recruitment

(1) General Provisions

xxx xxx xxx

d) A preliminary selection of candidates to be called for interview is to be made by the screening committee constituted among the members of the selection committee. The screening committee will adopt its own criteria for short listing the candidates to be called for interview/tests. As far as possible, a minimum of three and a maximum of ten candidates per post shall be shortlisted. Provided that, in a situation, like in case of specializations, where the applicant number may be small or even lone application is received, the screening committee may recommend calling for interview the single applicant.

The screening committee will place a summary of particulars of the candidates to be called for the interview before the selection committee.

The Registrar shall ensure that only those persons who fulfill the prescribed qualifications are called for interview.

e) Subject to statutory provisions and/or instructions of the Govt. of India, the selection committee (s) for filling up of the posts of the institute would be constituted as per Rule 4 (7).

f) The selection committee may consider other suitable names suggested, if any, by a member of the selection committee or brought otherwise to the notice of the committee. The selection committee may interview any of the candidates, as it thinks fit and shall, at the discretion of the Chairman, cause a written or practical test and shall make its recommendations, to the Board or the Director, as the case may be, the names of the selected candidates being arranged in the order of merit.

18. The qualification and experience required for the posts of Registrar and Deputy Registrar as per the advertisement issued, are reproduced hereunder:-

1. Registrar: Post - 01 (unreserved)

A person who shall be responsible for administration of the Institute on the policy guidelines set up by the Director and the Board of Governors. The Registrar is expected to be a person with positive attitude, capable of problem solving and with a proven ability to coordinate the work of various wings such as Administration, Finance & Accounts, Examination, Engineering and Stores & Purchase.

Qualification & Experience:

1. Post Graduate with at least 55% marks or its equivalent grade of "B" in the UGC 7- point scale.

2. (i) At least 15 years experience as Assistant Professor in AGP of Rs. 7000/- and above or with 8 years of service in AGP of Rs. 8000/- and above including as Associate Professor along with experience in educational administration or

(ii) Comparable experience in Research Establishment and/or other Institutions of higher education or

(iii) 15 years of administrative experience, of which 8 years shall be as Deputy Registrar or an equivalent post.

Remunerations and Benefit:

xxx xxx xxx

Maximum Age Limit: 50 Years. However, the competent authority may relax the experience and age in case of exceptionally meritorious candidates as per Institute rules.

II. Deputy Registrar (Administration and Purchase):

Post - 01 (Reserved for OBC):

Qualification & Experience:

Post Graduate with at least 55% marks. Twelve years in educational administration or comparable experience in Research Establishment/Institute of higher education including 4-5 years as Assistant Registrar.

Desirable:

Experience in computer based administrative functioning and material management degree/diploma.

Remunerations and Benefit:

xxx xxx xxx

Maximum age limit:

45 years. However, the competent authority may relax the experience and age in case of exceptionally meritorious candidates as per Institute rules.

19. The aforesaid advertisement was published in various newspapers. The last date for submission of application was 15.3.2011.

20. As the selection of respondent No. 3 as Registrar is under challenge and the dispute is sought to be raised that he was not eligible, it would be appropriate to refer to the relevant part of the application filed by him pertaining to his educational qualifications and the experience. The same have been extracted from File No. F. 1-3 (291)/2011/Estt. Vol. II, relating to respondent No. 3 as under:-

14. Academic Record starting with secondary education (please attach photo copies of certificates/Mark Sheets).

15. Employment (Particulars of your past position (s) * attached resume

Organisational Experience

Since Apr" 1988 - till date, A Commissioned officer in ADMINISTRATIVE BRANCH/
Cadre of the Indian Air Force

The Growth Path with Notable Contributions;

Since Jan" 2007 Joint Director Administration and HR (Air Force Central Accounts
office)

? Proficiently managing various HR, general administration, personnel and
facilities management activities.

? Planning scheduling and managing civil infrastructure works, liaison with MES,
contractors and Government agencies.

? Custodian of leave records of 12000 officers; encompassing updating, audit
and processing for payment to officers retiring.

? Monitoring 89 court cases in various district and high courts across country,
CAT, tribunals and APIO RTI.

? Managing a team of 80 personnel in Airmen Mess for procurement of ration and
preparing food for 700 airmen.

? conducted performance appraisal, multi skill training and development of staff.

? Maintaining effective security and liaison with civil/Army functionaries.

? Managing and Planning Budge, Finance and Expenditure of CSDs/NPFs and also
ensuring optimum inventory control.

Nov" 2006 - Dec" 2007 Staff officer (ADC) to Air Officer Commanding-In-Chief,
Central Air Command, Allahabad (especially hand-picked) IAF is divided into
seven Commands geographically and each command is commanded by a Three
Star General as Air Officer Commanding-In-Chief, who reports directly to the
Chief of the Air Staff at AIR HQs New Delhi.

? Played important role in designing/formulating strategic/operational/
administration/maintenance policies and war strategies.

? Ensured Admin/Maint/Ops policies complied with and obtained feedback upon
the implementation of the training schedules.

? Liaison with office of CHIEF OF THE AIR STAFF/MOD/PSO at AIR HQ/Air
Officers" Commanding of various Air Force Units under command and senior civil
dignitaries at various stage capitals under jurisdiction of the Command

? Playing a major role in the performance appraisal review of senior and other
officers.

? Co-coordinated and organized various inspection visits, meetings and briefings
for AOC-INC.

? Trained and managed staff of approximately 80 persons and fleet of vehicles

(15).

Jun "2005 - Oct" 2006 Staff officer (ADC) to Senior Air Staff Officer, Western Air Command, New Delhi (especially hand-picked) SASO is a 3 star General - An Operational Head of an Indian Air Force

Command and is number two to Air Officer Commanding - In-Chief of a command)

? Ensured policies and direction on operational matters are complied by Air Officers Commanding of various stations.

? Played a key role in formulation of strategic operational policies, monitoring operational training by units & obtaining feedback.

? Co-coordinated & organized meetings: conducted briefings for SASO and arranged visit of SASO to various Air Force Stations.

? Exercised control over staff of approximately 30 persons. Managed all office equipments and fleet of vehicles.

? Successfully played a major role in co-coordinating performance appraisal review of senior officers.

? Effective liaison with AOC-IN-C staff officers, operations (administration and maintenance) staff officers and various AF units Commanders.

Mar" 2004- May" 2005 Deputy Director (ON DEPUTATION) Air Force Naval Housing Board at New Delhi

? Managed the HR aspects of 50 offices; 300 staff at HQ and at various projects across India, ensuring optimum performance.

? Recruited and selected Civil, Electrical, IT, Finance, Drivers and Class IV employees for HQ and projects across India.

? Redesigned and implemented new performance appraisal, training and development programs.

? Functioned as Staff Officer to Director General, rendered effective advice on administration and formulation of policies.

? Managed resources; infrastructure and facilities, negotiations and liaison with contractors and Government Departments.

? Short listed and finalized the recruitment of architects and contractors.

? Conducted AGM and Board of Management Meeting.

? Planned Budgets, monitored Governmental & Non-governmental funds, procurements and inventory control.

Oct"-2002 - Feb"-2004 Vice President (Controller of examination), No 3 Trade

Examination Board, Chandigarh.

? Designed new promotion examination system for Personnel Below Officers Rank in Non-Technical Trades; encompassing maintaining question bank, designing question papers both objective and subjective, printing question papers, conducting examination at various Air Force Stations, evaluating answer books, preparing results and conducting practical examinations.

? Designed and implemented training modules for examiners.

? Managed HR aspects for 6 officers, 200 examiners, 40 civilian and 15 class IV employees.

? Managed the selection and recruitment process for class III and IV employees.

Feb" 2000- Oct" 2002 Deputy Chief Administrative Officer, 3 Base Repair Depot, Chandigarh.

? Managed general administration, facilities management of the Base Repair Depot; encompassing repair and maintenance of assets.

? Planning, budgeting, processing and executing infrastructural civil works, worth crore of rupees.

? Performed duties as Security Officer/Station Legal Officer and Depot Sports Officer.

? Instrumental in getting back appx. 500 acres of encroached Defence land by effective liaison with civil/police authorities.

? Managed complete selection and recruitment process for 50 Class III and IV civil employees.

? Planned Budgets and monitored Governmental & Non-governmental funds.

? Handling and monitoring various civil and criminal litigations against Air Force in High Court and CAT, Distt courts and labour tribunal at Chandigarh.

? Successfully organized and conducted various social functions and sports activities, notable few are:

? Indo-Sri Lanka Air force Weightlifting Championship in 2002

? Inter-Services Weightlifting Championship in year 2000, 2001, 2002 and 2003.

? Indian Air Force Weightlifting Championship in year 2000, 2001, 2002 and 2003.

? Indian Air Force Hockey Championship in year 2002 and 2003.

? Indian Air Football Championship in year 2002 and 2003.

Dec" 1997- Feb" 2000 Chief Security Officer - Srinagar (J & K)/Senior Administrative officer

? Managed 1500 security personnel consisting of BSF, DSC, TA, IAF police and quick reaction team and ensuring effective and incident free security in an area comprising of 4000 acres with 27 km long perimeter road.

? Planned, conducted and monitored various security training modules, standard operating procedures and emergency drills.

? Maintained excellent relations with Army/civil/police/intelligence and State Authorities for collection and exchange of vital intelligence information.

? Managing as

? Station Adjutant - Managing HR aspects for 250 officers, 4000 Airmen, 350 civilian employees, 200 class IV employees and 1000 DSC security personnel.

? Station Legal Officer - Effectively handling and monitoring various civil and criminal litigations against Air Force in High Court and Distt Court Srinagar.

? Sports officer - promoting sports as motivation factor; conducting sports competitions and selection of team to represent in various tournaments.

? Distinction of promoting entertainment by activating closed cinema and installing cable network.

? Innovated modalities of procuring fresh vegetables and provision from Chandigarh by air thus removed shortage of supply.

Jun "1995 - Dec" 1997 Administrative Officer, Kalaikunda (West Bengal)

? Managed HR aspects for 150 officers, 3500 airmen, 500 civilian employees and 300 class four employees.

? Managed as:

? Security Officer - managing security of men, material and information, physical security of Air Field Spread in 500 acres, maintenance of discipline, and investigation of cases.

? Sports Officer - Supervising Air Force Cycling Team and Eastern Air Command Basketball and Hockey Team.

? Works officer - Supervising and liaison with Military Engineering Service to provide repair and maintenance services, besides planning new infrastructure projects worth crore of rupees.

? Officer-In-Charge-Funds - Managing the Non-Public Funds & controlling various ventures like bakery, soda water plant, dairy farm, cinema, shopping complex and CSD transaction worth several lacs.

? Station Legal Officer - Handling and monitoring various civil and criminal litigations against Air Force in High Court and CAT, Kolkatta, District courts and labour Tribunal.

? Organized and conducted various training and development programs; conducting cycle expedition from KKD to DIGHA beach (350km); conducting various VVIP Visits, sports and cultural events.

Jun" 1994 - Jun "1995 Pre-Commissioning Training in Administration branch (52 weeks)

Apr" 1988 - Jun" 1994 Various Security and Administration Assignments

? Performing security, investigation of cases, law enforcement and upkeep & maintenance of discipline related duties in IAF.

OTHER DETAILS

References: Available Upon Request

Location Preference: Chandigarh, Mohali

Joining Date: Jul "2011

21. As per the information available in File No. NIPER/RC-13/2010, as produced in the court with the title "ADVERTISEMENT FOR THE POSTS OF (1) REGISTRAR (2) DY REGISTRAR (A & P), pages 92 to 102, there is a list of candidates who applied for the post of Registrar in response to the advertisement No. 02/2011. The number of candidates mentioned in the list are 19. The names of the candidates is extracted below:-

22. At page 106, there is an application of Dr. R.K. Soni, available on record, stating that in response to the advertisement No. 9/2010 for the post of Registrar earlier issued, he had applied, hence, his that application should be considered.

23. From pages 107 to 121, there is another list of the candidates who applied for the post of Registrar, containing 21 names. Though link of the application filed by Dr. R.K. Soni at Sr. No. 21 in the list is available at page 106 but there is nothing on record to show how the name of candidate at Sr. No. 20 i.e. Narender Yadav came to be added in the list.

24. At page 122 is an office order dated 11.4.2011 constituting a Screening Committee for screening the applications received for the post of Registrar and Deputy Registrar (Administration and Purchase). The Committee constituted is as under:-

1. Prof. K.K. Bhutani, Director, NIPER-Chairman
2. Prof. N. Sathyamurthy, Director, USER, S.A.S. Nagar - Member
3. Dr. Girish Sahani, Director, IMTECH, Chandigarh - Member

25. At this stage, first issue which is required to be considered is the manner in which the Screening Committee proceeded with. Whether there was any deliberation in the form of minutes of meeting recorded to show how short listing

was to be done or the eligibility of the candidates was to be considered.

26. A perusal of the list at pages 92 to 102 shows that there has been certain remarks made with pencil against the name of each candidate in the column of remarks considering the eligibility of the candidates in terms of the advertisement issued which pertains to age, qualification, experience, application being in time, TPC (may be "through proper channel"), fee, DA.

27. There are two aspects to be noticed from the aforesaid chart, namely, there were many candidates, who did not have experience, as was specifically required in terms of the advertisement issued and the candidates claimed managerial and administrative experience in different capacities in different institutions.

28. Against the name of respondent No. 3 in the column of experience it was mentioned as "not ok". In the sheet prepared subsequently, as is evident at pages 107 to 121, against the name of respondent No. 3 in the column of experience, it is mentioned as "experience certificate is not attached" and in the column of documents submitted, it is mentioned as "experience certificate is not attached".

29. The aforesaid list in the form of table available on record has not been signed by any member of the screening committee. The comments against the name of some of the applicants were that their applications were received late, however, the candidature of Ravinder Kumar Soni was considered, even though his application was received late, claiming that in response to the earlier advertisement No. 09/2010 the application submitted by him may be considered, but no clause in the advertisement in question has been referred to, which entitled any candidate applying for the post earlier to be eligible for consideration.

30. The applications which were received late were also considered on merits as regards the eligibility of the candidates. There is another list of 21 candidates available at pages 131 to 146 in file which has certain pencil remarks showing the candidates who were considered eligible/not eligible. Respondent No. 3 was considered eligible even though the comments in the column against his experience is that he has not attached any certificate in support of his claim. What was the job profile on various posts held by him is not available in the form of a certificate issued by his employer. Though in the case of some of the candidates it was mentioned that they do not have relevant experience but how the experience of respondent No. 3 was considered relevant, is not available on record. All what is available is a photo copy of the result of the screening committee for the post of Registrar at pages 147-148. The list as was prepared by the Screening committee is extracted below:-

31. candidates were considered eligible and they were invited for the interview held on 9.6.2011. The names of the candidates called for interview are as under:-

32. As per the minutes of meeting held on 9.6.2011, out of the aforesaid 7 candidates, 6 candidates appeared i.e. Maninder Pal Singh did not appear for

interview from the list extracted above. The name of respondent No. 3 was recommended for appointment.

33. A sealed cover containing title as "Confidential", "To be kept in sealed cover in file", "(Not to be opened)" "Selection Criteria for the post of Registrar", "signed on 9th June, 2011, was opened in court and perused. It contained two sheets. One about criteria adopted for selection to the post of Registrar and the second mentioning the marks obtained by the candidates in terms of the criteria laid down. Contents of both the sheets are extracted below:-

FIRST SHEET

Criteria adopted for the selection of Registrar.

The committee decided to adopt the following distribution of marks for assessing the candidates:-

Sd/- 9/6/11

Sd/- 9/6/11

Sd/- 9/6/11

Sd/- 9/6/11

SECOND SHEET

NATIONAL INSTITUTE OF PHARMACEUTICAL EDUCATION AND RESEARCH
SECTOR 67- S.A.S. NAGAR, PUNJAB -160062

Dated 09-06-2011

Post: REGISTRAR

Sh. PJP Singh Waraich has scored 83 out of 100 marks and stands first in the merit.

Sd/- 9/6/11

Sd/- 9/6/2011

Sd/- 9/6/11

Sd/- 9/6/11

34. The criteria was determined by the Selection Committee on 9.6.2011, the date on which the interview was to take place. At that stage, the Selection Committee, some of the members of which were part of the Screening Committee, very well in the knowledge of the educational qualifications and the experience of the short listed candidates which were merely 7 in number. Meaning thereby they knew as to how many marks one can get for educational qualification and the experience.

35. As per the criteria laid down, 30 marks were provided for experience by

providing one mark for each year for the relevant experience. As per the advertisement the requisite experience was at least 15 years experience as Assistant Professor in AGP of Rs. 7,000/- and above or with 8 years of service in AGP of Rs. 8000/- and above including as Associate Professor along with experience in educational, administration or comparable experience in Research Establishment and/or other Institutions of higher education or 15 years of administrative experience, of which 8 years shall be as Deputy Registrar or an equivalent post.

36. One of the candidate Dr. Shyam Narayan has been given 19 marks for experience. As per the information available in chart, he had experience as Administrative officer at Indian Council of Agricultural Research from 13.4.1992 to 24.4.2003 and thereafter on the post of Deputy Registrar (Administration) at IIT Roorkee from 25.4.2003 till the last date of submission of application. In the remarks, it was mentioned that he had not annexed his experience certificates.

37. Dr. Virender Kaur, was awarded 10 marks for experience. She worked at IET Bhaddal from 31.7.1998 to 6.2.2007 and thereafter as Additional Director-cum-Principal at Gurkul Vidyapeeth, Bannur from 7.2.2007. If considered in the light of experience required in the advertisement, she was working on the relevant post from 31.7.1998 onwards and till the last date for submission of application in March 2011, she had experience of more than 12 years but was awarded 10 marks.

38. As far as respondent No. 3 is concerned, he has been awarded 23 marks for experience. As per the information available, he joined Indian Air Force in April 1988. He has not even completed 23 years of service on the last date of receipt of the application, but still his entire experience has been counted as relevant for awarding marks. A perusal of his application shows that respondent No. 3 claimed that he joined Indian Air Force in the year 1988 when he was not even a graduate as he got B.Com degree in the year 1989 with 40% marks. His application is completely silent and vague with reference to his work and responsibilities upto June 1995. There is nothing available on record to show as to how his entire service was considered as requisite experience for the post for which he was awarded marks. In case this was the criteria and entire working experience of a candidate was to be considered for award of marks irrespective of the post held by him or equivalent to that post, then Dr. Virender Kaur, when she worked as Lecturer and Senior Scientific officer from January 1993 to July 1998 could not be ignored.

39. In the case of another candidate namely Sunil Gupta, the marks awarded for experience are 19. If his total service is counted from March, 1987 till the last date of submission of application, it comes to 24 years. But still, his experience has been counted from the year he worked as Lecturer in Architecture from August 1992. Similar experience of Lectureship of Dr. Virender Kaur was not counted.

40. In the case of Dr. M.R. Prasad, 27 marks have been awarded for experience. His experience service starts from 9.7.1984 as Lecturer. He worked on the post of Assistant Professor and onwards till 3.10.1997 and in his case experience of Lecturer and Senior Lecturer was counted.

41. Last candidate Sushil Kumar was granted 22 marks for experience. He started his service as Junior Engineer in October, 1986 and worked till February 1989. Thereafter, he worked as Administrative officer at ICAR and on different posts in different institutions.

42. A perusal of the aforesaid evaluation and award of marks by the Selection Committee for the experience shows that neither a uniform formula was applied nor it was considered as to what would be the relevant experience for which the marks could be awarded. If we consider first two clauses of the experience and read the same with the educational qualification, the experience cannot possibly be before one gets the Post Graduate qualification as no one can be appointed as Professor or Associate Professor or Assistant Professor or carry out some research without being a Post Graduate.

43. In the third column, the experience required is 15 years of administrative experience, of which 8 years shall be as Deputy Registrar or an equivalent post. The experience claimed by respondent No. 3 in his application on various posts was self styled. The same was not authenticated by his employer with reference to his designation as well as job profile as no experience certificate was produced. In the absence thereof, he could not be declared eligible for the post.

44. In para 2 of the preliminary objections, it has been submitted by the official respondents that as per the resume of respondent No. 3, he has 16 years of administrative experience as Class-I Gazetted Officer. But still he has been granted 23 marks for experience.

45. The eligibility of respondent No. 3, in terms of the advertisement, is sought to be justified by the official respondents in their written statement. Though in the file there is no record available in terms of which the Screening Committee, Selection Committee or the Appointing Authority had considered the matter with regard to equivalence of the experience with the requisite experience required to declare the candidates eligible/ineligible. In reply, the eligibility of respondent No. 3 is sought to be justified by referring to document, Annexure R-5 dated 24.6.2011 and 29.6.2011, issued by the Air Headquarter after even the interview had been conducted. The communication dated 29.6.2011 is pertaining to premature retirement of respondent No. 3.

46. The aforesaid certificate itself shows when the interview was conducted the material before the authorities was not sufficient to opine about the experience of respondent No. 3 i.e. why support is sought to be taken from a document which came into existence later on. But even this document does not take the case of respondent No. 3 any further. What can be gathered from this document is that respondent No. 3 was commissioned in service on 17.6.1995. The service

rendered from 21.4.1988 to 16.6.1995 was only counted towards his pension. This goes with information supplied by respondent No. 3 along with application where he termed his period of service from April, 1988 to June 1994, claiming the same to be on various security and administration assignments without furnishing any detail. The period from June, 1994 to June 1995 is stated to be pre-commissioning training in Administration Branch where after he claimed himself to have been posted as Administrative Officer but still his entire service period with Air Force irrespective of his job profile or the qualification required for the post has been counted as experience for the purpose of award of marks. It is for this reason only that authentication of the documents regarding qualification and experience is required to be furnished by any candidate so that the same could be appreciated properly. As already noticed above, in the case in hand, the claim of experience of respondent No. 3 to be eligible for the post to be considered by the respondents, was considered merely on the basis of a self styled statement without any supporting document from his employer.

47. As far as the marks awarded by the Selection Committee in the interview are concerned, as the same are in terms of satisfaction of the Interview Committee, this court is not in a position to opine thereon. But the fact remains that there were four members of the Selection Committee, if they had interviewed the candidates they must have been given separate sheets for the assessment of each candidate. The record as to how each of the candidate was assessed by each member of the Selection Committee individually, has not been produced.

48. This court in Lalit Sood's case (supra) opined that the experience gained by an employee as Stenographer, cannot be termed as "administrative experience" required for selection to the post of Assistant Registrar in the University.

49. In Union of India (UOI) and Another Vs. P.K. Roy and Others, , Hon'ble the Supreme Court accepted the factors laid down by the Committee of Chief Secretaries constituted for settling the disputes regarding equation of posts arising out of the States Reorganization Act, 1956. The factors are: (i) the nature and duties of a post; (ii) the responsibilities and powers exercised by the officer holding a post, the extent of territorial or other charge held or responsibilities discharged; (iii) the minimum qualifications, if any, prescribed for recruitment to the post; and (iv) the salary of the post. It was further opined therein that salary of a post for the purpose of equation is the last of the criteria. If first three criteria are fulfilled, the salary drawn on a post may be irrelevant. However, as the facts of the case suggest the exercise for equation of post held by the candidates, which were different than those mentioned in the advertisement for the purpose of experience, has not been done in the present case. The number of candidates were having experience working on different posts. The Screening or the Selection Committee was required to apply mind and on the basis of the para-meters laid down for equation of posts should have taken a conscious decision to hold a candidate eligible or ineligible for consideration. The exercise having not been done, it cannot be termed that respondent No. 3 was eligible for

the post.

50. There is no material placed even before this court except the bio-data submitted by respondent No. 3 himself. It cannot be termed that whatever claimed by respondent No. 3 in his application should have been considered as a true statement in the absence of a certificate from the employer. In fact, as is evident from the record, the appointing authority in the present case was misled while considering the entire service career of twenty three years of respondent No. 3 as relevant experience and awarded the marks accordingly, whereas in the written statement, it stated that respondent No. 3 was having 16 years experience on a gazetted post. Even the record, which was prepared at the time of scrutiny of the application shows that it was mentioned therein that the experience of respondent No. 3 is "not O.K." as the experience certificate is not attached. There is no experience certificate produced on record by respondent No. 3 even upto the date of interview. The selection was being made to the post of responsibility. Casualness in the process could not be expected, as is evident from the case in hand. For the reasons mentioned above, the selection and appointment of respondent No. 3 on the post of Registrar is set aside. The writ petition is disposed of accordingly.