
(1998) 03 DEL CK 0007
In the Delhi High Court
Case No : C.W.No.986 of 1998

G.L. Verma

APPELLANT

Vs

DDA

RESPONDENT

Date of Decision : 18-03-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 2 AD 774 : (1998) 72 DLT 484 : (1998) 45 DRJ 213

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : Shri Arvind K. Nigam, for the Appellant; Ms. Anusuya Salwan, for the Respondent

Judgement

DR. M.K. Sharma, J.—The present writ petition is directed against the action of the respondent in not calling the petitioner for the interview for appointment to the post of Deputy Director (Public Relations). According to the petitioner he possesses all the requisite qualifications and experience in terms of the Recruitment Rules as also in terms of the advertisement published by the respondent and even inspire of the same the petitioner is not being called for the interview whereas persons without the requisite qualifications and experience are being called.

2. In view of the aforesaid allegations it would be necessary to look into the background of the petitioner and his qualifications and experience to come to a conclusion as to whether the petitioner fulfills the requisite qualifications and experience as per the Recruitment Rules and the advertisement and also whether the respondent has ignored the case of the petitioner arbitrarily and illegally.

Along with the writ petition the petitioner has annexed a copy of his Bio-data which discloses that the petitioner obtained his graduation from Delhi University with Hindi and English as subjects and also obtained Masters' decree in Political Science from Delhi University. He also has a Post-Graduate Diploma in Journalism and also in Public Relations as also diploma in Labour Law. He has also obtained

Bachelor of Law Degree from Delhi University. It is further disclosed from the said Bio-data that the petitioner contributed number of articles in various newspapers and journals, a list of which also is annexed in the Bio-data. The petitioner has been serving with the respondent No.1 as Assistant Accounts Officer for a number of years.

3.The respondent has framed the Recruitment Regulations for the post of Deputy Director (Public Relations). The aforesaid post is a Group "A" post in the scale of pay of Rs.3000-4500 and is a selection post and method of recruitment as per the Recruitment Rules is promotion, failing which by transfer or deputation or failing both by direct recruitment. Clause 15 vests a power on the Central Government as also on the Delhi Development Authority to relax any of the provisions of the regulations in respect of any class or category of persons or posts but subject to the condition that as and when a decision is taken to exercise the power of relaxation the reasons must be recorded in writing for the same.

4.On 19.11.1996 the respondent published an advertisement in the National Newspaper inviting the applications for filling up the said post of Deputy Director (Public Relations) in the aforesaid scale of pay. The said advertisement also spelt out the educational qualifications and experience necessary for the said post as also the general conditions for submission of the application for appointment to the said post. The requirement of educational qualifications and experience, desirability and relaxation etc. as laid down in the advertisement which have relevance on the facts of the present case is extracted below:-

EDUCATIONAL QUALIFICATION AND EXPERIENCE:

DESIRABLE:

- i) Degree from recognised University or equivalent with English, Hindi/Urdu as a subject.
- ii) Diploma in Journalism of a recognised University/Institutions or equivalent.
- iii) 8 years" Journalistic experience in a responsible capacity in Newspaper news agency of repute or equivalent experience in publicity/and Public Relation Work in a Government Department or Commercial Publicity Organisation of repute.
- iv) Familiarity with the requirement of various publicity media.

Desirable:

Degree in journalism/Mass Communication/Public Relation of a recognised University/ Institution or equivalent.

5. The petitioner admittedly fulfills the first two clauses of educational qualifications for he has a degree from recognised University with English and Hindi as subjects. He also has a diploma in journalism from the recognised University/Institution. So far the requirement of experience is concerned

eligibility criteria laid down is "8 years" journalistic experience in a responsible capacity in a newspaper, news agency of repute or 8 years experience in publicity or in public relations work in a Government Department or commercial publicity organisation of repute".

According to the petitioner, he also fulfills the aforesaid eligibility criteria, for he has been writing number of articles in the national news papers as also in journals.

6. Mr. Arvind Nigam, learned counsel appearing for the petitioner submitted that even he has experience in publicity and public relations work for 8 years since he has been working with the respondent as an Assistant Accounts Officer, in which capacity he has been discharging public relations as also publicity functions.

7. Ms. Anusuya Salwan, appearing for the respondent however, submitted that the petitioner does not have 8 years journalistic experience in a responsible capacity in a newspaper, news agency of repute or 8 years experience either in publicity or public relations work in a Government Department or commercial publicity organisation and since the petitioner could not fulfill the aforesaid requisite criteria he was not called for interview.

Mr. Nigam also submitted that earlier also during the year 1987-88 applications were invited by the respondent for filling up the post of Deputy Director (Publicity) as against which the petitioner applied for with same qualifications and experience as that of now, as against which the petitioner was called for interview by the respondent although no appointment was made to the said post.

In reply to the aforesaid submissions Ms. Salwan submitted that the designation of the post for which the applications were invited and interview letters were sent was for the post of Deputy Director (Publicity) and not the present post. She also submitted that at that stage there were no recruitment rules framed by the respondent and Therefore, reliance on the said fact by the counsel for the petitioner is misplaced.

8. Admittedly, the post for filling up of which applications were called by the respondent in the year 1987-88 was Deputy Director (Publicity). It is also an admitted fact that the Recruitment Regulations adopted by respondent No.1 in the year 1990 were not in existence at that relevant time when the aforesaid advertisement was made for filling up the post of Deputy Director (Publicity). Under the circumstances the said factor of petitioner being called for the interview and appearing in the same cannot have any relevance and/or bearing. The petitioner has to make out a case about his eligibility on the basis of the Recruitment Rules of 1990 and the advertisement published by respondent No.1 for filling up the post of Deputy Director (Public Relations).

9. Counsel for the petitioner at one stage of his arguments faintly tried to argue that the aforesaid Recruitment Rules are not valid in absence of notification in the Official Gazette and also in absence of approval of the Central Government as

required u/s 57 of Delhi Development Authority Act. The said submissions however, cannot be accepted as the petitioner has not challenged the validity of the said rules in the writ petition and Therefore, he cannot be permitted to take up a ground which is not pleaded in the writ petition. In fact the petitioner has himself relied upon the conditions in the said Recruitment Rules as also on regulation 15 of the said regulations which is a power of relaxation with the plea that the said power of relaxation as provided for under regulation 15 should have been exercised in the present case. Besides, even if the Recruitment Regulations are not taken note of still the essential qualifications and experience as set out in the advertisement will hold the field and persons desiring to be appointed to the post of Deputy Director (Public Relations) shall still have to fulfill the criteria as set out in the advertisement. Therefore, the said plea raised by the petitioner, in my considered opinion, is not relevant for the purpose of the present case, nor could he be allowed to raise such plea in absence of any pleading thereto.

10. The petitioner, admittedly has the educational qualifications, for he has a degree from recognised University with English and Hindi as subjects and also has diploma in journalism. In terms of the advertisement the candidate has also to possess 8 years journalistic experience in a responsible capacity in a newspaper, news agency of repute or alternatively 8 years experience in publicity or public relations work in a Government Department or commercial publicity organisation of repute. The expression used in the advertisement "journalistic experience in a responsible capacity" necessarily connotes experience as a journalist in a responsible office in a newspaper or news agency. Merely by writing articles in newspapers and journals the petitioner cannot meet the aforesaid requirement, for even if he is held to be a journalist the petitioner cannot be said to have journalistic experience in a responsible capacity in the newspaper or any news agency. The words "in responsible capacity" necessarily denotes an office or post. The intention is to recruit a journalist associated with a newspaper or a news agency and holding some responsible position in such a newspaper or news agency. Alternatively the candidate must have 8 years experience either in publicity or public relations work in a Government Department or commercial publicity organisation. The petitioner, admittedly is working as an Assistant Accounts Officer and Therefore, it cannot be said that he fulfills even the alternate criteria laid down for experience to be possessed by the candidate. Since the petitioner fulfills neither of the aforesaid criterias laid down as requisite experience the petitioner could not have been called by the respondent to appear in the interview for filling up the post of Deputy Director (Public Relations).

11. The next question however, is whether the respondent should have in this particular case exercised the power of relaxation as provided for in regulation 15 of the Recruitment Rules, as argued on behalf of the petitioner. Power of relaxation is always a discretionary matter. The said discretion has to be exercised by the authority on whom the said power is vested within the bounds and circumscribed limit as set out in the provision and must be done in the

manner provided, after recording reasons in writing for the same. The issue is whether in the present case the afore said power could have been exercised by the respondent even if it so desired. During the course of arguments it was stated that as against the aforesaid advertisement about 189 applications were received, out of which the applications submitted by 181 candidates were found to be invalid as they did not fulfill the eligibility criteria on one count or the other. After scrutiny of all the applications the respondent found only 8 valid applications, who provisionally fulfilled the eligibility criteria and they were short-listed and called for interview. If the respondent was to exercise its discretionary power of relaxation the same could have been done in respect of a class or category of persons and not in respect of one individual only i.e. the petitioner. Besides, 8 applications have been found to be provisionally valid and Therefore, they have been called for the interview and no special treatment could have been meted out to the petitioner by the respondent to the detriment of 180 other applicants who were also similarly not found eligible for interview.

Therefore, the aforesaid submission of the learned counsel for the petitioner seeking for exercise of power of relaxation by the respondent cannot be accepted.

12. The petitioner also raised a grievance in the present writ petition that the 8 candidates who have been called for interview also do not fulfill the eligibility criteria with regard to qualification and experience. The petitioner approached this court at a very initial stage - the stage when the respondents called candidates for appearing in the interview for appointment to the said post. The respondent has categorically stated that it has called for 8 persons for the interview provisionally. The records including the applications of the said 8 candidates have also been placed before me by the respondent. It is categorically stated in the counter affidavit that the interview letters had been sent to the candidates provisionally after going through their Bio-data and that the candidates would be required to produce their original certificates and the same would be scrutinised before interview. The respondent has also noted on the applications that each one of them was being called subject to furnishing marks sheet of graduation with English and Hindi as subjects and also other testimonials, as the case may be. The following 8 persons have been called:-

- i) Shri Manish Singhal;
- ii) Ms. Rajni;
- iii) Dr. Sudhir K.Ranga;
- iv) Shri Girbir Singh Chauhan;
- v) Shri Yogendra Singh Mann;
- vi) Shri Prabhu Singh;
- vii) Shri Chander Kant Tripathi; and
- viii) Shri Vijay Thakur.

It is stated that out of the aforesaid 8 persons called for interview 3 namely - Shri Sudhir Kumar Ranga, Shri Prabhu Singh and Shri Vijay Thakur did not turn up for the interview and Therefore, they are out from the zone of consideration.

13. Regarding the rest, they have been provisionally called to appear in the interview having prima facie satisfied the eligibility criteria but subject to further verification of marksheet and other testimonials. I have no hesitation in my mind that the respondent No.1 being a responsible Public Undertaking would not appoint a person to the post, who is not eligible in terms of the advertisement and Recruitment Rules. If, however, the respondent seeks to appoint a candidate without requisite educational qualification and experience in violation of the Recruitment Rules, it would be open to an aggrieved candidate to challenge such an appointment. But the petitioner who is held not to have the requisite experience for the post in terms of the advertisement and Recruitment Rules cannot make any grievance for not calling him for the interview and also for calling the aforesaid 8 persons for the interview.

14. In view of the discussions above, I do not find any merit in this writ petition and the same is accordingly, dismissed but without any costs.