
(2014) 11 AHC CK 0135
In the Allahabad High Court
Case No : Writ C. No. 60706 of 2014

Jai Vijay Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 19-11-2014

Acts Referred:

Citation : (2014) 11 ADJ 643 : (2015) 1 ALJ 702 : (2015) 109 ALR 422

Hon'ble Judges : Yashwant Varma, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : S.K. Rao and O.P. Singh, Advocates for the Appellant; P. Padia, Advocates for the Respondent

Judgement

Yashwant Varma, J.—We have heard Shri O.P. Singh, learned Senior Advocate assisted by Shri S.K. Rao in support of the writ petition and Shri Prakash Padia for the contesting respondent Nos. 2 and 3. Aggrieved by an order dated 08/10/2014, passed by the Chief Area Manager, Indian Oil Corporation Ltd. (hereinafter referred to as the "Corporation"), the petitioner has approached this Court seeking quashing of the aforesaid order and a further direction for accepting the documents submitted by him in support of his application for award of L.P.G. Distributorship, for location Bheetargaon, Kanpur Nagar.

2. A perusal of the impugned order establishes that the application of the petitioner has been rejected on the following three grounds:

(a) The Petitioner is not possessing the educational qualification of being a graduate;

(b) the Field Verification Committee found that his bank account carried a credit balance of only Rs. 1,69,972.54 against the total declared sum of Rs. 2,56,000/-; and

(c) the land offered for the construction of the showroom was not in the ownership of the petitioner nor did he have a registered lease agreement in

respect thereof for a minimum of 15 years.

3. Shri O.P. Singh, learned Senior Advocate, appearing in support of the writ petition has strenuously argued that the petitioner is indeed having the requisite minimum educational qualification, as required under the Brochure in question. In support of the aforesaid submission, Shri O.P. Singh invited our attention to paragraph 7.1 of the Brochure which laid down the minimum educational qualification required by an applicant. The said clause of the Brochure reads as under:

"PARA 7.1(ii) Have minimum any one of the following educational qualification awarded by any of the Universities incorporated by an Act of the Central or State Legislature in India or any other educational institutions established by an Act of Parliament or declared to be deemed as University qualification recognized by the Ministry of HRD, Government of India as on the date of application.

- a) Graduation in any field
- b) Chartered Accountant
- c) Company Secretary
- d) Cost Accountant
- e) Diploma in Engineering"

4. In proof of the petitioner being a graduate, Shri O.P. Singh invited the attention of the Court to a "Graduation Certificate" issued by the Indian Army dated 31/12/2004, and contended that the same qualified the requirements laid down in paragraph 7.1 of the Brochure. The aforesaid Graduation Certificate, which appears at page 51 of the paper book, reads as follows:

"GRADUATION CERTIFICATE

This is to certify that as per Government of India, Ministry of Personnel Public Grievance and Pensions (Department of Personnel and Training) OM No. 15012/8/82 Estt. (D) dated 12 Feb 86, Ex-servicemen who are matriculate (which terms includes the corresponding certificate in the Navy or the Air Force) and has put in not less than 15 years service in the Armed Forces of the Union may be considered eligible for appointment to any reserved vacancy in group "C" posts for which the essential qualification is graduation and where experience of technical or professional nature is not essential.

2. In view of the above concession, Service Number 14801511-N Rank Ex Link Name & Initials Jai Bijay Singh Trade DVR (MT) who had served in the Indian Army for 16 years from 17 Jan, 1989 to 31st Dec, 2004 may be considered educationally qualified for reserved Group "C" posts where prescribed qualification is graduation."

5. Shri O.P. Singh, learned Senior Counsel appearing for the petitioner further relied upon a response received by the petitioner in response to an application

made by him under the Right to Information Act, 2005. The said response is extracted herein below:

"Shri Jai Bijai Singh

82-C Block Shyam Nagar

Kanpur-208013

INFORMATION UNDER RTI IN R/O Shri JAI BIJAI SINGH

1. Reference your RTI

2. Reply to your RTI is given below:-

(a) Yes. You can apply for reserved vacancies of the group C of Central Govt./ Corporations undertaken by Central Govt. like IOCL, BPCL, HPCL, etc. with Graduation certificate issued by Indian Army.

(b)

.....XXXXXX

.....XXXXXX"

6. Shri Pakash Padia, learned counsel appearing for the contesting respondents, however, strongly disputed the correctness of the aforesaid submissions and contended that the Graduation Certificate which has been relied upon by the petitioner was clearly not representative of the qualifications mentioned in paragraph 7.1 of the Brochure. He also drew our attention to the application form submitted by the petitioner, in Clause 8 whereof the petitioner had held out that he was the holder of a B.A. Degree. Shri Pakash Padia further submitted that the Brochure clearly envisages the holding of a degree awarded by any of the Universities incorporated by an Act of the Central or State Legislature or a degree awarded by any other educational institution established by an Act of Parliament, and since the Graduation Certificate held by the petitioner did not fall in any of the above categories he was clearly not entitled to be considered for selection as a dealer.

7. Having heard learned counsel for the parties, we find that the provisions of paragraph 7.1 of the Brochure clearly required the applicants to have the educational/professional qualifications referred to in clauses (a) to (e) in paragraph 7.1 of the Brochure. It is an admitted position that the Petitioner does not possess any of the professional qualifications mentioned in the aforementioned paragraph nor does he have a Diploma in Engineering. In his case, therefore [which would be confined to clause (a) *ibid.*], he would have to hold a graduation degree awarded by any of the Universities incorporated by or under an Act of the Central or State Legislature in India or any other educational institution established by an Act of Parliament or declared to be as deemed University and recognized as such by the Ministry of Human Resource Development, Government of India.

8. A careful perusal of the Graduation Certificate on which the petitioner relies upon makes out that the same certifies the following:

(a) the holder thereof has put in not less than 15 years of service in the Armed Forces of the Union; and

(b) the holder thereof would be considered eligible for appointment to any reserved vacancy in Group "C" posts for which the essential qualification is graduation.

9. The certificate referred to above is not an embodiment of an educational qualification awarded either by a University or by any other educational institution or by an entity declared to be a deemed University as is evident from a reading of the contents of the Certificate. It is primarily a certificate of equivalence enabling the holder thereof to participate in an appointment process to a reserved vacancy in Group "C" posts, where the minimum required qualification is a graduate degree.

10. In our opinion, the provisions of paragraph 7.1 of the Brochure *ibid*, unambiguously require the applicant to hold a degree/educational qualifications in any of the disciplines mentioned in Clauses (a) to (e) thereof and additionally, the said degree/educational qualification must be one, which is awarded by a University or other educational institution established by an Act of Parliament or a deemed University.

11. We may also observe that the certificate relied on by the petitioner is primarily one enabling the holder thereof to participate in an appointment process undertaken to fill up the reserved vacancies in Group "C" posts. The selection of a dealer by the Corporation for award of L.P.G. outlet/dealership is clearly not an appointment process for reserved vacancies in Group "C" posts. We are, therefore, unable to accept the submissions canvassed by Shri O.P. Singh learned Senior Advocate.

12. Shri Singh learned Senior Counsel thereafter contended that paragraph 7.1 of the Brochure clearly provided that the graduation degree required thereunder could be in any field and, therefore, urged that the certificate held by the petitioner rendered him eligible for consideration for the dealership in question. In our considered opinion, this contention is also liable to be rejected. In the first place, the certificate relied upon by the petitioner does not represent an educational qualification obtained by the holder. The words used in clause (a) of paragraph 7.1 *ibid*, namely, "Graduation" and "in any field" cannot be read disjunctively and in any view of the matter must be read alongside and in association with the substantive provisions namely, educational qualification awarded by any of the Universities or any other educational institution established by an Act of the Central or State Legislature or by a deemed University. The words "in any field" cannot be read in isolation and are in fact to be read in continuation with the word "graduation". In our opinion, clause (a) of paragraph 7.1 of the Brochure in question only suggests that the graduation

degree obtained by an applicant from any University, educational institution or deemed University may be in any field like arts, science, commerce etc. However, the certificate referred by the petitioner of deemed graduation of a matriculate ex-serviceman who has put in more than 15 years of service in the Armed Forces of the Union, cannot be considered answering to the qualification envisaged in the Brochure.

13. Lastly, dealing with the contention based upon the response received on the Right to Information Application, it is apparent that even this does not advance the case of the petitioner in any manner. This response too only holds out that the petitioner would be eligible to apply for reserved vacancies in Group "C" posts in the Central Government or Corporations under the control of the Central Government. As has been noticed herein above, the petitioner was not applying for or against reserved vacancies in Group "C" posts and, therefore, this also cannot come to his aid.

14. Shri O.P. Singh, learned Senior Counsel appearing for the petitioner has also assailed the validity of the other two objections, taken by the Corporation while rejecting the candidature of the petitioner. However, we find that scrutiny of the validity of the other two objections taken by the Corporation is not even necessary as the petitioner fails on the first score itself. Thus, we need not delve further on the validity or otherwise of the remaining two objections taken by the Corporation.

15. In view of the above, we are satisfied that the petitioner has rightly been found lacking in basic eligibility condition i.e., the necessary minimum educational qualification. Hence, we find no merit in the challenge laid by the petitioner against the impugned order dated 08/10/2014. Accordingly, the writ petition is dismissed.