
(2018) 04 DEL CK 0359

In the Delhi High Court

Case No : Civil Writ Petition No. 10535 Of 2016, Civil Miscellaneous No. 41377 Of 2016

Lokendra Gehlot

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 09-04-2018

Acts Referred:

Citation : (2018) 04 DEL CK 0359

Hon'ble Judges : Gita Mittal, J;C. Hari Shankar, J

Bench : Division Bench

Advocate : M. Tarique Siddiqui, Tamim Qadri, Tanveer Ahmad, Reetika Gupta, GiGi C. George, Naresh Kaushik, Devik Singh, Girish Pande

Final Decision : Dismissed

Judgement

C. Hari Shankar, J

1. After hearing detailed arguments in this matter, we had, on 9th April, 2018, dismissed this writ petition stating that the reasons for our decision would follow. This judgment proceeds to record the reasons therefor.

2. The petitioner, who claims to be a public spirited citizen, belonging to the "agriculture background" who "works for the benefits and upgradation of farming community" and, incidentally, an advocate as well, seeks issuance of a writ of quo warranto, quashing the appointment of Respondent No. 5 (Mr. Krishan Chandra) as Senior Microbiologist-cum-Regional Director of the National Bio-fertilizer Development Centre ("the NBDC") and, later, as Director of the National Centre of Organic Farming ("the NCOF"). The NCOF, we may note here, is, admittedly, merely the NBDC rechristened.

3. In view of the nature of the said challenge, it would be appropriate, at the outset, to set out the qualifications prescribed, for appointment as Senior Microbiologist/Regional Director of the NBDC and as Director of the NCOF, as they applied at the time of appointment of Respondent No. 5, to the said posts.

Recruitment, to posts in the NBDC and, later, in the NCOF, were governed by the National Bio-fertilizer Development Centre (Group A and B) Recruitment Rules, 1985 (herein after referred to as "the 1985 RRs") and the National Centre of Organic Farming and Regional Centres of Organic Farming (Group "A" and Group "B" posts) Recruitment Rules, 2010 (hereinafter referred to as "the 2010 RRs"), respectively.

4. The qualification for Senior Microbiologist / Regional Director in the NBDC, as prescribed in the 1985 RRs, read as under:

"Essential Qualifications:

(i) M.Sc in Soil Science/Chemistry or Agricultural Chemistry or Microbiology from a recognized University or Equivalent.

(ii) 07 years experience in the field of Fertilizer Use/recycling of organic waste/ use of bio-fertilizer and their quality control/Agronomy or Agricultural Extension.

Note: Qualifications are relaxable at the discretion of the UPSC in case of candidates otherwise well qualified.

Note.2 The qualification(s) regarding experience is/are relaxable at the discretion of the UPSC in the case of candidates belonging to the Scheduled Caste and Scheduled Tribes if, at any stage of selection, the UPSC is of the opinion that sufficient number or candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

Desirable:

(i). Doctorate Degree in the subject concerned.

(ii) Administrative Experience of implementing developmental programmes in the field of Fertilizer/Manure."

6. For the post of Director of NCOF, the 2010 RRs stipulate the method of recruitment to be "Deputation including short term contract/Promotion". It is also clear that the educational qualifications, to which the petitioner alludes, in his writ petition, pertain to the "deputation" mode of recruitment, and are not applicable to appointment on promotion, which is open to any "Assistant Director in PB-3 in the pay scale of Rs. 15600-39100 with Grade Pay of Rs. 5400 with five years regular service in the grade". Inasmuch as the qualification quoted by the petitioner in para 7 of the writ petition do not apply to promotion- which was the mode whereby Respondent No. 5 ascended to the post of Director in the NCOF- the requirement of burdening this judgment, by a reproduction thereof, stands obviated.

7. The case set up by the petitioner is that Respondent No. 5 was the holder of a Diploma of Associateship issued by the Institution of Chemists, Calcutta, India which could be regarded as equivalent to the Degree of M.Sc. in Soil Science/ Chemistry or Agriculture Chemistry or Microbiology. As such, the petitioner

contends that Respondent No. 5 did not possess the essential qualifications prescribed for the appointment either as Senior Microbiologist or Regional Director of NBDC (later NCOF), or as Director, NCOF.

8. In our considered opinion, the present writ petition is an abuse of the process of Court, and ultimately does disservice to the very concept of public interest, which it purports to espouse.

9. Respondent no. 5 was appointed as Senior Microbiologist-cum-Regional Director of NBDC, in 1992. There is not a whisper of an averment, in the writ petition, which came to be filed nearly a quarter of a century later, in 2016, justifying such a belated challenge to the appointment of Respondent No. 5 as Senior Microbiologist/Regional Director of NBDC.

10. It appears that, in fact, the petitioner had filed a writ petition (WP(C)1355/2015) challenging the appointment of Respondent No. 5 as Director of NCOF in 2010, and that the said writ petition was dismissed by a learned Single Judge of this Court, vide order dated 11th February, 2015, as withdrawn, on the petitioner being apprised of the fact that, not being a contender for the post of Director of NCOF, he did not possess requisite locus standi to maintain such a petition. While thus permitting the petitioner to withdraw the writ petition, the learned Single Judge reserved liberty, to the petitioner, instead, to file a public interest litigation, as prayed. It appears that, piggybacking on the said liberty, the petitioner has chosen to assail, not only the promotion of Respondent No. 5 as Director of the NCOF, but also his appointment as Senior Microbiologist-cum-Regional Director, NBDC, which took place more than a score of years prior thereto.

In our view, this is entirely impermissible.

11. Having said that, we may also note the fact, as placed on affidavit by Respondent No. 2, that, on 19th August, 1958, an Office Memorandum had been issued by the Ministry of Scientific Research and Cultural Affairs, notifying the decision of Government of India "that the Associateship Diploma of the Institution of Chemists (India) obtained by examination be recognized for all chemical appointments for which M.Sc. degree in Chemistry is prescribed as a qualification."

12. The petitioner, in his rejoinder to the counter-affidavit of Respondent No. 2, as well as of Respondent No. 5, has sought to answer the reliance, by the said respondents, on the Office Memorandum dated 19th August, 1958 (supra), by placing reliance, instead, on a response, dated 31st January, 2018, issued by the Department of Higher Education, Ministry of Human Resource Development, informing him that the Office Memorandum No. F. 18/36/57-T-5 dated 19th August, 1958, said to be issued by the erstwhile Ministry of Scientific Research & Cultural Affairs, "had never been issued by this Ministry" and that, therefore, there could be no question of recognition of the course conducted by the Institution of Chemists (India) Calcutta of MHRD.

13. Inasmuch as the OM dated 19th August, 1958, purports to be issued, not by the MHRD, but by the Ministry of Scientific Research and Cultural Affairs, we fail to see how the information conveyed, by the Ministry of Human Resource Development, to the petitioner, can be of any use in further his case.

14. As such, apart from the fact that the challenge, to the appointment of Respondent No. 5 as Senior Microbiologist-cum-Regional Director in the NBDC is extraordinarily belated and liable to be rejected as such, the challenge is, additionally, devoid of merit as well.

15. Coming now, to the challenge, by the petitioner to the appointment of Respondent No. 5 as Director, NCOF, we again find that the petitioner has sought to advance misleading averments, in the writ petition, on this score. The qualifications, for recruitment as Director, in NCOF extracted by the petitioner in sub para (e) of para 7 of the writ petition, as already noted by us hereinabove, apply only to deputation, which is one of the two modes of recruitment, prescribed for the post of Director, NCOF. More specifically, the 2010 Rules stipulate that the post of Director, NCOF could be filled either by deputation or by short term contract/promotion. The qualifications reproduced in sub para (e) of para 7 apply only to deputation. Insofar as appointment as Director NCOF by promotion is concerned, the 2010 rules did not stipulate any such qualifications, merely requiring that the promotee to be "an Assistant Director in PB-3 in the pay scale of 1560-3900 with grade pay of 5400 with five years regular service in the grade".

16. As such, the contention of the petitioner, that Respondent No.5 did not possess the requisite educational qualifications for appointment as Director, NCOF, is also entirely bereft of substance.

17. In this regard, one may also note that Respondent No. 2, in its counter-affidavit, has categorically asserted that, at the time of promotion of Respondent No.5 as Director, NCOF, "he had rendered more than five years regular service as Regional Director, therefore he was recommended by the Departmental Promotion Committee under the chairmanship of Chairman/Member, UPSC and accordingly appointed to the post of Director, NCOF on regular promotion basis."

18. The writ petition of the petitioner, and the challenge sought to be raised, therein, are, therefore, entirely bereft of merit and, in the case of the challenge to the appointment of Respondent No. 5 as Senior Microbiologist-cum-Regional Director of the NBDC, hopelessly belated as well.

19. We are constrained to observe that the petitioner, who claims to be an advocate by profession, has indulged in adventurism, which ill behoves a practitioner of law. We may mention here, that this Court is having to deal repeatedly, with petitions seeking issuance of writs of quo warranto, challenging the appointments and promotions of public functionaries, made by persons, who purported to be spirited citizens, merely throw such challenges in the air, leaving the Court to embark on a fact-finding inquiry into the validity of the appointment

in question. The nature of such challenges, by total strangers styling themselves as "public spirited" citizens, leave us, in many cases, seriously in doubt as to the bona fides of the challenge. While it is true that classical notions of locus standi do not apply to petitions seeking issuance of a writ of quo warranto, which inhere, in themselves, an element of public interest, we seriously wonder whether, given the rampant misuse of the liberty thus available in law, the time has not arrived, when reasonable guidelines, to curb such misuse, are not prescribed.

20. With the said observations, this writ petition is dismissed.

21. There shall be no order as to costs.