
(2013) 01 JH CK 0006
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6089 of 2005

Manoj Choudhary

APPELLANT

Vs

The Union of India and others

RESPONDENT

Date of Decision : 07-01-2013

Acts Referred:

Citation : (2013) 1 JLJR 417

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Saurav Arun, for the Appellant; Prabhash Kumar, Advocate for the Union of India and Mr. S.N. Sinha, Advocate For Respondents 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh

1. Heard counsel for the parties. The writ petitioner had sought quashing of the letter no. 1323 dated 19th April 2005 issued by the Manager (Personnel and Administration) (Respondent No. 4) (Annexure-8) by which his claim for appointment to the post of Supervisor (Library) has been rejected as he does not possess the one year post qualification experience as on 01st April 2002.

2. According to the petitioner, an advertisement was issued on 22nd June 2002 (Annexure-1) by the National Hydro-Electric Power Corporation inviting applications from eligible candidates for different posts notified therein including that of Supervisor (Library). The minimum educational qualification and eligibility criteria prescribed for the said post was Post Graduate Diploma (one year duration) in Library Science or Bachelor Degree (two year duration) in Library Science with one year post qualification experience in the field. According to the petitioner, he had obtained the Bachelor Degree (two year duration) in Library Science as on 18th June 2001 having passed the said course from Patna University. According to him, he had also completed the one year post

qualification experience by the date of interview that was held on 16th September 2003 at 11.00 AM. Respondents however, have rejected his claim by the impugned order (Annexure-8) on wholly erroneous ground that he had failed to fulfill the necessary eligibility criteria of one year post qualification experience as on 1st of April 2002. The petitioner assails the impugned order on the ground that his candidature has been rejected in a wholly arbitrary and erroneous manner treating the 1st April 2002 as the last date for achieving such qualification, although as per the advertisement contained at annexure-1 in the last column laying down the qualification for different posts, the date of 1st April 2002 has been indicated as required to ascertain the upper age limit of the candidate who intend to apply for the said posts. The maximum age has been indicated in the columns in the rows below against the last column of upper age limit for years as on 1st of April 2002 and against the post of Supervisor (Library), the upper age limit is 30 years as on 1st April 2002. Therefore, according to the petitioner, he deserves to be appointed and the impugned order is unsustainable in law. According to the petitioner, his experience of one year post qualification was complete by the date of interview as he relies upon annexure-5 being the application form wherein in the column relating to the employment particulars, he has indicated that he was in service from 1st November 2001 and as such, he has completed one year qualification on completion of one year from 1st November 2001 i.e. on 31st October 2002 much before the date of interview. His candidature has therefore been wrongly rejected.

3. Respondents have appeared and filed their counter affidavit and justified their stand stating that the petitioner's details which have been enclosed, do not satisfy the requirement of minimum eligibility criteria of one year post qualification experience. They have also justified the reckoning of such qualification from 1st April 2002 as per the advertisement. I have heard counsel for the parties and gone through the relevant advertisement contained at annexure-1. From perusal of said advertisement, it appears that what has been prescribed in the right column of the eligibility criteria is the requirement of upper age limit as on 1st April 2002 and for the post of Supervisor (Library), the maximum age as on 1st of April 2002, should be 30 years. The minimum qualification, as prescribed for the post of Supervisor (Library), has already been indicated herein above which, in the present case, requires Post Graduate Diploma (one year duration) in Library Science or Bachelor Degree (two year duration) in the same subject with one year post qualification experience in the field. The advertisement however does not lay down cut off date, but in the last paragraph, it has been indicated that applications in the prescribed format should reach within three weeks from the date of publication of the advertisement. The advertisement is dated 22nd June 2002 and counting three weeks thereof, would come to 13th July 2002. The settled legal position in such matters is that either the advertisement specifies a cut off date or candidates are required to fulfill the eligibility criteria as on the last date on which submission of applications are to be made. In this case, as indicated herein above, candidates like the petitioner

were required to fulfill all the eligibility criteria as per the advertisement by the last date of the application which should be 13th July 2002. The petitioner has himself indicated in his bio-data that he started working in a particular school after obtaining two years Bachelor Diploma in Library Science from 1st November 2001, which would mean that he could possess the one year post qualification experience only on 31st October 2002. This qualification obviously is after the last date of submission of the application by which date every candidate is required to fulfill the minimum eligibility criteria. It does not make any difference if the candidate has obtained the qualification before the date of interview. No corrigendum has been issued making relaxation in the educational qualification uniformly to all eligible candidates. Respondents however appear to have taken a wrong stand in reckoning of possessing minimum educational qualification i.e. 1st of April 2002 which unequivocally appears to be the date for calculating the upper age limit of the candidate concerned. Although, the reasoning in the impugned order is not strictly in accordance with the advertisement, but considering the case of the petitioner as well as on examination of his relevant qualification and experience, it transpires that the petitioner had acquired post qualification experience much after the last date of the submission of the form i.e. on 13th July 2002 i.e. three weeks from the date of the publication of the advertisement. In these facts and circumstances therefore, in exercise of discretionary jurisdiction, the petitioner has failed to make out any case for grant of any relief. Accordingly, the writ petition is dismissed.