
(2009) 04 AHC CK 0236

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 18196 of 2008

Manoj Kumar Panda

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 16-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0236

Hon'ble Judges : R.K.Agrawal, J and Jaya Shree Tiwari, J

Final Decision : Allowed

Judgement

1. By means of the present writ petition, filed under Article 226 of the Constitution of India, the petitioner seeks a writ, order or direction in the nature of certiorari quashing the order dated 14th March, 2008 passed by the Director of the Institute, respondent No. 2, filed as Annexure 9 to the writ petition. The petitioner further prays for a writ, order or direction in the nature of mandamus directing the respondents to issue an appointment letter to the petitioner forthwith for the post of Assistant Director (Technical) and other consequential reliefs.

2. Briefly stated the facts giving rise to the present petition are as follows:

3. The Government of India has set up an institute at Agra in the name and style of Central Footwear Training Institute, which is registered under the provisions of the Societies Registration Act, 1860. The Institute is functioning as an autonomous body under the Department of Small Industries Development Organisation, Ministry of Small Scale Industries Government of India. The Central Footwear Training Institute, Agra, hereinafter referred to as "the Institute", advertised the post of Assistant Director. The petitioner, who was working in National Institute for the Orthopaedically Handicapped under the Ministry of Social Justice and Empowerment, Government of India, Kolkata, after obtaining due permission/Wo Objection Certificate" from his employer also applied for the post of Assistant Director so advertised. The application was processed, and the petitioner was called for the interview. The petitioner for

some unavoidable circumstances did not bring along with him original certificates and requested the Selection Committee to permit him to appear in the interview. He promised to produce the original certificates as and when desired. The Selection Committee permitted the petitioner to appear in the interview. He was interviewed and the Selection Committee in its recommendations made on 15th May, 2007 placed the petitioner at serial No. 1 in the order of preference of the candidates to be appointed as Assistant Director (Technical) in the Institute. A note was also put in by the Selection Committee that due to unavoidable circumstances Sri Manoj Kumar Panda could not show his original certificate at the time of interview. He will be allowed to join subject to verification of original certificate at the time of joining in CFTI, Agra. The recommendation of the Selection Committee has been brought on record as Annexure CA3 to the counter affidavit, filed by Sri S.N. Ganguly, Director, CFTI, Agra on behalf of the respondents. When the petitioner was not issued the appointment letter, he made enquiries and came to know that the person placed at serial No. 2, namely, Sonendra Singh, had been issued the appointment letter, thereafter he approached this Court by filing Civil Misc. Writ Petition No. 8036 of 2008, which was disposed of vide judgment and order dated 20th February, 2008 with the direction to the concerned authority to decide the representation in accordance with law by means of a reasoned and speaking order. Pursuant to the aforesaid direction the Director of the Institute had decided the representation vide order dated 14th March, 2008 and had rejected the same on the ground that as the petitioner had failed to appear before the Selection Committee with the original certificates and approval was not granted by the competent authority to such a course adopted by the Selection Committee. The order dated 14th March, 2008 is under challenge in the present writ petition.

4. We have heard Sri S.S. Upadhyaya, learned counsel for the petitioner and Sri Shashi Shekhar Tiwari, learned Standing Counsel appearing for the respondents.

5. Learned counsel for the petitioner submitted that the Selection Committee in its wisdom had permitted the petitioner to appear in the interview with the stipulation that the original certificates should be produced at the time of joining and, therefore, the stand taken by the Director that the approval was not accorded by the competent authority to such procedure adopted by the Selection Committee, the action of the Selection Committee is arbitrary. He further submitted that the petitioner's selection could not have been kept in abeyance or cancelled merely on this ground as it was open to the Selection Committee not to permit the petitioner to appear for the interview and if it has permitted the petitioner to appear in the interview with certain conditions, the competent authority could not have overruled such decision.

6. Sri Tiwari, learned Standing Counsel, on the other hand submitted that in the advertisement so published, the petitioner was to produce the original certificates at the time of interview and the Selection Committee had no power to relax any such condition. The action of the Selection Committee was, therefore,

without authority of law and the competent authority was fully competent in not approving the said decision taken by the Selection Committee. He further submitted that the Selection Committee had orally permitted the petitioner to appear in the interview and asked orally to produce the original certificates within a week. He, therefore, justified the decision taken by the Director of the Institute.

7. We have given our thoughtful consideration to the various pleas raised by the learned counsel for the parties. It is no doubt true that in the advertisement, there was a specific condition that the candidates called for the interview have to produce all the original certificates but nonetheless the fact remains that at the time of interview the Selection Committee permitted the petitioner to appear in the interview with the specific condition that he would produce the original certificates at the time of joining. It was well within the power of the Selection Committee to put such condition and to permit a candidate to appear in the interview. We do not see any illegality on the part of the Selection Committee in adopting such a course. The other submission that the petitioner was informed by the Selection Committee orally to produce the original certificates within a week is not borne out from the record as from the recommendations made by the Selection Committee, filed as Annexure 3 to the counter affidavit, the note put up by the Selection Committee was very specific that the candidate will be allowed to join subject to verification of the original certificates at the time of joining in CFTI, Agra. That being the position, we are of the considered opinion that the Director of the Institute has acted arbitrarily and illegally in not issuing the appointment letter to the petitioner when the candidates at serial No. 2 has been issued the appointment letter.

8. In the result the writ petition succeeds and is allowed. The impugned order dated 14.3.2008, filed as Annexure 9 to the writ petition, is set aside and the Director, respondent No. 2, is directed to issue appointment letter to the petitioner after verification from the original certificate to be produced for the post of Assistant Director (Technical) in the Institute within a month from the date a certified copy of this order is filed before the said authority. However, there shall be no order as to costs.