
(2009) 11 MP CK 0014
In the Madhya Pradesh High Court

Manoj Kumar Shrivastav

APPELLANT

Vs

The Vikram University and Another

RESPONDENT

Date of Decision : 10-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 2 MPHT 393 : (2010) 1 MPLJ 343

Hon'ble Judges : Shantanu Kemkar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.

Feeling aggrieved by his non-selection for the post of Lecturer in Language Lab and by the selection of the 2nd respondent on the said post, the petitioner has filed this petition under Article 226 of the Constitution of India seeking a direction to the 1st respondent Vikram University, Ujjain to appoint him on the said post by ordering cancellation of the appointment of the 2nd respondent.

Briefly stated in pursuance of the advertisement issued by the 1st respondent inviting applications for the post of Lecturer-Language Lab, the petitioner as well as the 2nd respondent amongst various other candidates applied for appointment on the said post. After scrutinizing the applications, the Selection Committee interviewed the candidates and selected the 2nd respondent on the said post.

The case of the petitioner is that the 2nd respondent was not fulfilling the criteria fixed for the said appointment, in as much as she was not Ph.D and was not having working knowledge of computer operations as per the requirement of the advertisement. It is also his case that M/s Chhajlani Computer Education, Ujjain could not have issued a certificate about Diploma in Computer Application in view of the letter dated 23-9-2008 (Annexure P-8) issued by the Centre for Development of Advanced Computing and in view of the proforma of such certificate (Annexure P-9). According to him the certificate (Annexure R-1/4)

filed by the 2nd respondent is a forged document. It is also his case that till 24-4-2007 the last date for submission of the applications the second respondent was not possessing Ph.D Degree and as such her appointment on the said post is contrary to the advertisement.

The respondents have filed their separate replies. In the reply filed by the 1st respondent Vikram University it has been stated that the 2nd respondent had all necessary qualification for the appointment on the post of Lecturer-Language Lab. It has been stated that as per the qualification prescribed in the advertisement she was possessed with more than 55% marks in Master Degree in M.A. She was holding Ph.D Degree in view of the certificate dated 26-4-2007 (Annexure R-1/2) issued by the Vice Chancellor of the University in exercise of powers given to the Vice Chancellor by the decision of the Executive Council of the University taken on 1-7-1998 and 23-8-2001. It has been further stated that the second respondent was having requisite qualification as she has done her Diploma in Computer Application from the authorized training centre of CDAC Pace which is Central Government Undertaking as per Annexure R-1/4. She had also necessary experience of Audio Broad Cast controlling, recording and digital mixing as per the certificate Annexure R-1/5. It is the case of the 1st respondent that the Selection Committee which was constituted for the selection of the candidates, after scrutinizing the documents and after taking oral interview unanimously selected the second respondent for the said post and in the absence of any illegality or proved malafide, the decision of the Selection Committee as to who is the best candidate for the said post needs no interference by this Court while exercising its jurisdiction under Article 226 of the Constitution of India.

The respondent No. 2 in her separate reply denied the averment made by the petitioner in his petition and justified her selection on the said post.

Having heard the petitioner and the learned Counsel for the respondents and after perusal of the record pertaining to the impugned selection I find no merit in this writ petition.

In the advertisement (Annexure P-I) issued for inviting applications to fill up the post of Lecturer-Language Lab following was the requisite minimum qualification:

Lecturer-Language Lab:

Good academic record with at least 55% of the marks or an equivalent grade of B in seven point scale at the master's degree level in Hindi/English from an Indian University or an equivalent degree from Foreign University.

Note : NET shall remain the compulsory requirement for appointment as Lecturer. However, the candidates having Ph.D Degree in the concerned subject are exempted from NET for this post. The candidate should have working experience preferably in operation and maintenance of audio broad cast quality production equipment and working knowledge of computer operations based on DOS/Window/LINUX.

The petitioner's first grievance is that the 2nd respondent was not having Ph.D Degree. His second grievance is that the certificate (Annexure R-1/4) filed by the petitioner to show that she had working knowledge of computer operation based on DOS/Window/LINUX is invalid and is a forged document.

As regards the certificate (Annexure P-1/4) the same was issued on 15-12-2003 by the authorized training centre of CDAC. The petitioner's challenge to this certificate (Annexure R-1/4) is on the basis of Annexure P-8 by which the Centre for Development of Advanced Computing informed the petitioner that M/s Chhajlani Computer Education, Ujjain had been an Authorized Training Centre of CDAC Gist Pace till March, 2004 and its licence has not been renewed further due to some unavoidable reasons. It has been further informed to the petitioner that the certificate issued by it in the capacity of Authorized Training Centre of CDAC Gist Pace does not hold valid. However, the said document Annexure P-8 issued on 23-2-2008 makes it crystal clear that the said M/s Chhajlani Computer Education, Ujjain was an Authorised Training Centre of CDAC till March, 2004. The Certificate Annexure R-1/4 issued by the M/s Chhajlani Computer Education, Ujjain is of 15th December, 2003. Thus as per the petitioners' own document (Annexure P-8) the said M/s Chhajlani Computer Education, Ujjain was having authority as Authorized Training Centre on the date of issuance of said certificate (Annexure R-1/4). In the circumstances, it cannot be held that the certificate of M/s Chhajlani Computer Education was a certificate from an unauthorized Training Centre. As regards the document (Annexure P-9) in view of the fact that the 2nd respondent was not claiming knowledge of computer operation from CDAC itself but was claiming such experience and knowledge from its Authorized Training Centre M/s Chhajlani Computer Education, Ujjain, the document Annexure P-9 is of no consequences.

As regards the other ground of the petitioner that till last date of submission of the application, the second respondent was not having Ph.D Degree, it has been explained by the respondents that 2nd respondent was very much holder Ph.D as Vice Chancellor of the University in exercise of powers conferred upon him by the Executive Council of the University had certified vide its letter dated 24-4-2007 that the second respondent is entitled for Ph.D Degree. The said letter was very much filed by the second respondent along with her application form. Thus only a ministerial act of issuance of the degree was to be performed. In support of the statement, the respondents have placed reliance on the decision of the Executive Committee (Annexure R-1/3). The respondents have also produced the Ph.D Degree of the second respondent. In the circumstances, it is held that the 2nd respondent was having requisite qualification as prescribed in advertisement (Annexure P-1) when she had submitted the application and it cannot be said that her appointment has been made though she was not possessing the requisite qualification.

In view of the foregoing discussion no fault is found in the appointment of the 2nd respondent who was having requisite qualification for the post in terms of

advertisement (Annexure P-1). It has now been well settled that the High Court while exercising its jurisdiction under Article 226 of the Constitution of India is basically concerned with the correctness of the decision making process and not merit of the decision. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The decision of the Selection Committee can be interfered with only on limited grounds such as illegality or patent material irregularity in constitution of the Committee or its procedure vitiating the selection on proved malafides affecting the selection. The Court's function is not to hear the matter as of Appellate Court against the decision of the Selection Committee. [See: Mahavir Singh Vs. Khiali Ram and Others, ; Durga Devi and another Vs. State of H.P. and others, ; Dalpat Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others, and State of U.P. v. Committee of Management of S.K.M. Inter College 1995 AIR SCW 3030].

In view of the aforesaid, no case for interference is made out. The petition fails and is hereby dismissed. No order as to costs.