
(2015) 05 JH CK 0018
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1809 of 2013

Nakul Prasad

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 14-05-2015

Acts Referred:

Citation : (2015) 05 JH CK 0018

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sourabh Shekhar, for the Appellant

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties.

2. The petitioner has approached this Court being aggrieved with his non-selection under Advertisement No. 2/2007 in the post of Manager (Finance) under Airports Authority of India Limited.

3. Petitioner was the candidate under OBC category under the said advertisement, for which five posts were advertised. Selection relates to various posts including the post of Manager (Finance). Vacancies were also notified for General category and SC and ST Category as well. Petitioner came unsuccessful in the results published in January 2010 after the written exam and interview. In February 2010, he preferred an application under RTI seeking certain information from the respondents which were supplied on 12.02.2010 vide Annexure-7 to the writ petition. An information sought for and furnished by the said documents (Annexure-7) relates to the cut-off marks of 60% earmarked for both General Category and OBC Category with the remarks that the cut-off marks for each recruitment depends on the standards of the examination and performance of the candidate appeared. Petitioner further sought another information in November 2010 asking for further details of the exam which again was promptly supplied on 09.12.2010 (Annexur-6). Petitioner still was not satisfied and he

sought further information on 09.11.2012 asking for merit list of all selected candidates for appointment on the post of Manager (Finance) which was furnished on 30.11.2012.

4. In the meantime, a fresh Advertisement No. 2/2012 was issued by the respondent-Airports Authority of India Limited in which vacant posts were carried over and included. The petitioner admittedly did not fulfill the eligibility criteria and could not compete in the said selection process. However, the said advertisement did not attain finality and another Advertisement No. 2/2015 has been published for appointment to the various posts including that of Airport Manager (Finance). The recruitment exercise admittedly is on all India basis. Petitioner after obtaining information in November 2012, made a representation before the respondents for recruitment under the same advertisement as the benefit of reservation could not be passed on to the OBC candidates in such circumstances. Said representation has been rejected by order dated 10.05.2013 reiterating that the petitioner had secured 70 marks out of 125, which is less than 60% marks which is cut-off percentage kept for final selection in the OBC Category.

5. The present writ application was filed sometime before the said rejection in March 2013 with the prayers that the respondents be directed to forthwith appoint the petitioner on the post of Manager (Finance) as the entire vacancies under the Advertisement No. 2/2007 has remained unfilled. He also prayed for declaration of results of candidates belonging to other Backward Classes by following the reservation policy and also judgement rendered by the Apex Court in the case of India Sahani Vs. Union of India in which the percentage of reservation has also been earmarked for the members of Other Backward Classes Category. He also prayed for other relief (s) which are not being pressed at the moment.

6. Respondents were called upon to file their response. Counsel for the respondent-Airports Authority of India Limited has responded to the prayer and averments made by the petitioner, by succinctly stating that after seven years of issuance of advertisement in 2007 and closure of selection process in January 2010, and moreover, subsequent selection process having been initiated in 2012 and 2015, grievances of the petitioner are stale and the writ petition suffers from gross unexplained delay and laches. Therefore, no interference is warranted. He has relied upon the judgment rendered by the Apex Court in the case of Union of India (UOI) and Others Vs. Tilak Raj Gandhi, AIR 2014 SC 1216 : (2014) AIRSCW 980 : (2014) LabIC 1315 : (2014) 1 SCALE 337 : (2014) 3 SCC 145 : (2014) 1 SCC(L&S) 481 and in the case of L. Muthukumar and Another Vs. The State of Tamil Nadu and Others, AIR 2000 SC 3084 : (2000) 1 JT 85 Supp : (2000) 6 SCALE 536 : (2000) 7 SCC 618 : (2000) 3 SCR 462 Supp : (2000) AIRSCW 3522 : (2000) 6 Supreme 407 .

7. Counsel for the petitioner, in reply, submits that till date, advertisement of 2012 has not been completed and vacancies advertised therein remained unfilled

and overtaken by another advertisement of 2015 which specifically stipulates that filling up vacancies for the post of Manager (Finance) would be subject to the outcome of the Writ Petition (Civil) No. 4628/2010 said to be pending in Delhi High Court. It is submitted that if a serious shortcoming has vitiated the process of selection under the advertisement of 2007, the petitioner is not late in the day to raise his grievance when he was asking for information under the RTI which has revealed that the respondents have fixed uniform cut-off marks for General Category and OBC Category both. It is therefore submitted that the petitioner's case can still be considered for appointment under the same advertisement of 2007 as vacancies remained unfilled till date.

8. Having considered the rival submissions of the parties and in the light of the aforesaid factual background and the legal principles raised on their behalf, this Court feels it proper to observe at the outset that while giving anxious thought to the grievances raised by the petitioner, it cannot be lost sight of at the same time that if the selection process initiated in 2007 has attained finality in 2010 and the petitioner has approached this Court in 2013 raising the question about application of a principle in the matter of grant of reservation, the same cannot be examined in isolation by ignoring the larger picture that other persons who have attained eligibility and may be candidate for consideration in the subsequent exercise of 2012 or 2015, have to be overlooked. Petitioner in spite of the results published in January 2010 and relevant information having been furnished in February 2010, which were sufficient for raking up his grievances at an appropriate point of time, has come too late in the day by preferring this writ application in 2013. Since the selection process has attained finality in January 2010 itself and recruitment exercise is to be conducted on all India basis, many more candidates would be eligible for consideration under the subsequent advertisement where earlier unfilled vacancies have been carried over. The relief prayed for by the petitioner is therefore not worthy of being granted in exercise of discretionary jurisdiction of this Court at this point of time. Therefore, this Court is not inclined to interfere in the writ petition, which is accordingly dismissed. I.A. No. 1466/2014 also stands closed.