

(2011) 05 DEL CK 0134

In the Delhi High Court

Case No : Writ Petition (C) No. 2940 of 2011

Narendra Kumar Tripathi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Citation : (2011) 05 DEL CK 0134

Hon'ble Judges : Rekha Sharma, J

Bench : Single Bench

Advocate : K.K. Rai and Gaurav Gupta, for the Appellant; Sangeeta Bharti, Nidhi Minocha, Shweta Mishra for Respondent Nos. 1 and 3 and Satya Siddiqui, for R2, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Sharma, J.—The Petitioner applied for appointment to the post of Director (Personnel) Western Coalfields Limited (WCL) and South Eastern Coalfields Limited (SECL) pursuant to advertisements dated September 17, 2010 and September 23, 2010 issued by Respondent No. 2, namely, Public Enterprises Selection Board, Department of Personnel & Training. However, his parent department, namely, Coal India Limited, who is Respondent No. 4 before me, did not forward his application to Respondent No. 2. Aggrieved by the action of Respondent No. 4 in not forwarding his application, he filed a writ-petition No. 847/2011 in the High Court of Chhattisgarh at Bilaspur. It was contended by Respondent No. 4 before the Chhattisgarh High Court that the Petitioner did not fulfill the eligibility criteria. The High Court disposed of the writ-petition vide its order dated February 21, 2011. The following paragraphs of the order are relevant for our purpose:

x x x x x

5. On a query, as to what is the eligibility criteria, it was informed that the Petitioner has joined senior level on 18/11/2002 as Deputy Chief Mining Engineer/

Sub Area Manager in SECL. Thus, the contention of Dr. Shukla that the Petitioner does not have two years experience at senior level is un-substantiated and is not correct.

6. In view of that not forwarding recommendation of the Petitioner to Public Enterprises Selection Board, Government of India is not just and proper. Thus, the Coal India Limited is directed to forward the application of the Petitioner as foretasted forthwith to the Respondent No. 2 for necessary action.

2. Consequent to the aforesaid order passed by the Chhattisgarh High Court, Respondent No. 4 did forward the application of the Petitioner to Respondent No. 2, but it was done with the following rider:

x x x x x

We are forwarding herewith the bio-data/ applications (in duplicate) each in respect of Shri NK Tripathi, General Manager (Mining) SECL whose date of birth is 29-10-1959 for selection to the above mentioned three posts.

In this connection it is to state that Shri NK Tripathi is not having at least two years cumulative experience during the last ten years in various aspects of personnel management and industrial relations as per notification of PESB. However, in view of the directive of the Hon'ble High Court of Chhattisgarh vide Order WP(s) No. 847/2011 - Narendra Kumar Tripathi v. UOI and Ors. dated 21-02-2011 the above applications of Shri Tripathi are forwarded herewith....

3. In view of the aforesaid conditional forwarding of the application, the Petitioner once again approached the Chhattisgarh High Court by way of another writ-petition No. 1510/2011, on which the following order was passed on March 18, 2011:

x x x x x

2. If the Petitioner feels that despite the clear order rendered by this Court in W.P. (S) No. 847/2011, his name is not being considered, the Petitioner may approach the concerned authorities for doing the needful. No second petition at this stage for almost the similar relief, is maintainable, as the same has already been considered in the earlier writ petition and order has been passed.

3. In view of foregoing, the petition is dismissed.

4. The present writ-petition has been filed, as Respondent No. 2 in spite of the order of the Chhattisgarh High Court has not called the Petitioner for interview, which was scheduled for 4th May, 2011 and is further scheduled for 5th & 10th of May, 2011.

5. It is submitted by learned Counsel for Respondent No. 2 that the Petitioner has not been called for interview, as in terms of the advertisement, he does not have two years cumulative experience during the last ten years at a senior level in various aspects of personnel management and industrial relations in an

organization of repute.

6. The learned Senior counsel for the Petitioner, on the other hand, submits that in view of the order passed by the Chhattisgarh High Court holding the Petitioner eligible, Respondent No. 2 could not reject his application.

7. It is not disputed by the learned Counsel for Respondent No. 2 that advertisements dated September 17, 2010 and September 23, 2010 were filed before the Chhattisgarh High Court. It is obvious therefore, that the Chhattisgarh High Court held the Petitioner eligible for consideration to the post of Director (Personnel) after considering the aforesaid advertisements. If Respondent No. 2 and Respondent No. 4, both of whom were parties before the Chhattisgarh High Court, felt aggrieved by the order passed by the High Court, it was open to them to take recourse to legal remedy available to them but they did not do so. In this view of the matter, I feel, that in the teeth of the orders of the Chhattisgarh High Court, dated February 21, 2011 and March 18, 2011, Respondent No. 4 was not justified in forwarding the application of the Petitioner with a rider, and Respondent No. 2 in turn was not justified in not calling him for interview.

8. For what has been noticed above, Respondent No. 2 is directed to call the Petitioner for interview for the post of Director (Personnel). I am informed that the next interview is scheduled in the afternoon of May 05, 2011 and then in the morning and afternoon of May 10, 2011. It is left to the discretion of Respondent No. 2 to call the Petitioner for interview on any of these two dates.

9. It is clarified that this order will not confer any right on the Petitioner for selection to the post. He only has a right to be considered. It is also clarified that this order will endure only to the benefit of the Petitioner.

10. The writ-petition is disposed of in terms of the aforesaid directions.

11. A copy of this order be given Dasti to learned Counsels for the parties, under the signatures of the Court Master.