
(2000) 01 AHC CK 0068
In the Allahabad High Court
Case No : C.M.W.P. No. 31903 of 1999

Pramod Kumar Raj and others

APPELLANT

Vs

L.I.C. of India and others

RESPONDENT

Date of Decision : 24-01-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 1 AWC 776 : (2000) 1 UPLBEC 666

Hon'ble Judges : M. Katju, J;D.R. Chaudhary, J

Bench : Division Bench

Advocate : T.P. Singh and Sudhir Agarwal, for the Appellant; P. Padia, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—This writ petition has been filed for a writ of certiorari to quash the fax message dated 26.7.1999, Annexure-7 to the writ petition and for a mandamus directing the respondents to appoint the petitioners on the post of Apprentice Development Officers after declaring the final result of the selection held in pursuance of the employment notice dated 25.1.1999.

2. We have heard the learned counsel for the parties.

3. It is alleged in paragraph 3 of the petition that as per L.I.C. circular dated 20.1.1999 recruitment of Apprentice Development Officer is to be made from certain sources which are mentioned in that paragraph. In paragraph 4 of the petition, it is alleged that by employment notice dated 21.1.1999 issued by the Zonal Manager, North Central Zone Office, L.I.C. Kanpur recruitment of 300 posts of Apprentice Development Officer was notified for various divisional offices and for Varanasi Division and number of vacancies notified were 38. True copy of the employment notice dated 21.1.1999 is Annexure-2 to the writ petition. In paragraph 5 of the petition it is alleged that the petitioners are working as Agents in the Respondent Corporation and satisfy the eligibility requirements for

being considered for 50% quota meant for the Agents of the Corporation. On 25.4.1999 a written test was held in which the petitioners also appeared. Thereafter the result was declared in May, 1999 in which the petitioners were shown as qualified in the written examination. They were called for interview and were awaiting publication of the final result. In paragraph 14 of the petition, it is alleged that the final result with respect to selected candidates of Agra, Aligarh, Allahabad. Kanpur, Haldwani. Lucknow and Meerut Divisions were published in July, 1999 vide Annexure-6. However, the result was not declared for Varanasi Division and hence Writ Petition No. 28914 of 1999 was filed in this Court. This Court directed that the result should be declared or the respondents should show cause vide order of this Court dated 16.7.1999. In paragraph 18 of the writ petition, it is alleged that instead of showing cause the respondents have arbitrarily issued the impugned fax message dated 26.7.1999 cancelling the entire selection for Varanasi Division besides three other divisions and ordered fresh selection. True copy of the fax message is Annexure-7 to the writ petition. The petitioner relied on the decision of the Supreme Court in *Asha Kaul v. State of Jammu and Kashmir*. JT1993 (2) 688 and some other decisions, e.g.. *Ram Prasad Rai and others v. State of U. P. and others* 1995 (2) UPLBEC 985.

4. A counter-affidavit has been filed by the respondents. In paragraph 5 of the same, It has been stated that a large number of complaints were made by several persons regarding the selection test complaining about gross irregularities including bribery/favouritism. True copy of the complaint filed by ten candidates addressed to the Chairman L.I.C. is Annexure-C.A. 1 to the counter-affidavit. True copy of the complaint made to the Executive Director (Vigilance) is Annexure-C.A. 2 to the counter-affidavit. True copy of the complaint made by the L.I.C.. Agents Federation of India to the Chairman of the L.I.C.. is Annexure-C.A. 3. In paragraph 9 of the counter-affidavit., it is alleged that the Chairman of L.I.C.. as well as the Executive Director (Vigilance) took the matter and the complaints very seriously and a fax message was sent to the Executive Director of the Zonal Manager, Kanpur dated 21.5.1999 directing him to get the matter investigated through some responsible officer and to send the report to the Central Office at Bombay. True copy of the fax message along with the complaint is Annexure-C.A. 4 to the counter-affidavit. In paragraph 10 of the counter-affidavit, it is stated that an order dated 27.5.1999 was passed by the Vigilance Secretary, L.I.C. in which the Senior Divisional Manager, Varanasi has been named and it was pointed out to the Zonal Manager, Kanpur that in the written test various irregularities were alleged and it was directed that an investigation be made through some responsible officer. True copy of the order of the Vigilance Secretary dated 27.5.1999 is Annexure-C.A. 5 to the counter-affidavit. In paragraph 11, it is stated that an order was passed on 27.5.1999 directing for holding the enquiry. True copy of the same is Annexure-C.A. 6. The investigation report submitted by the regional manager dated 21.6.1999 and 25.6.1999 is Annexure-C.A. 7 and C.A. 8 to the counter-affidavit. The Zonal Manager then passed an order dated 26.6.1999 for cancelling the examination of

Varanasi Division. Thereafter the matter was forwarded to the Central Office which passed the order dated 15.7.1999 for annulling the examination vide Annexure-C.A. 10 to the counter-affidavit. Thereafter a notification dated 26.7.1999 (Annexure-C.A. 1) was issued. In paragraph 17 of the counter-affidavit. It is alleged that a person whose name is on the select list is not entitled to be appointed. In paragraph 19 of the counter-affidavit, it is stated that out of the 11 divisions in which the examination was held, cancellation was made only for four divisions in respect of which there were specific complaints and enquiries. In paragraph 20 of the counter-affidavit, it is alleged that a vigilance enquiry is pending against the Senior Divisional Manager, Varanasi Division. In paragraph 21. It is stated that a fresh selection is going to be held in Varanasi Division.

5. Sri T. P. Singh learned counsel for the petitioner submitted that as per Annexure-C.A. 7 and C.A. 9, there was no irregularity in the examination. He also submitted that out of 38 posts, only seven selected candidates were relatives of officials. He has also relied on Annexure-C.A. 8 for this submission.

6. In our opinion, this is not a fit case for interference under Article 226 of the Constitution. The authorities have come to the conclusion that there were serious irregularities in the examination and hence it is not proper for this Court to interfere. In *Union Territory of Chandigarh v. Dilbagh Singh* AIR 1993 SC 796 , the Supreme Court held that no opportunity of hearing need be given for cancelling the examination on the ground of irregularity. The Supreme Court further observed that the cancellation order cannot be vitiated on the ground that direct evidence about the corruption charges was not available. In the present case, there appear to have been several complaints regarding bribery/favouritism and a vigilance enquiry is going on against the Senior Divisional Manager, Varanasi. In *Shankarsan Dash Vs. Union of India*, , the Supreme Court held that a successful candidate does not acquire infeasible right to be appointed. The only requirement is that the State should not act in an arbitrary manner and should act bona fide. In the present case, it appears that a large number of complaints have been made regarding the test for Varanasi Division and three other divisions. It is for the authorities to decide whether there should be a fresh examination or not and this Court has only limited power of judicial review in such administrative matters. We do not think that the authorities acted arbitrarily in this matter. Moreover in the fresh selection which has been ordered the petitioners can also appear.

7. The scope of judicial review in administrative matters has been discussed in great detail by the Supreme Court in *Tata Cellular Vs. Union of India*, , vide paragraphs 86 to 113. It has been held therein that Judicial review of administrative decisions is not concerned with reviewing the merits of the decision but the decision making process itself. As held by Lord Brightman in *North Wales Police v. Evans* (1982) 3 All ER 141 :

"Judicial review, as the words imply, is not an appeal from a decision, but a

review of the manner in which the decision was made. Judicial review is concerned, not with the decision, but with the decision making process."

8. The same view has been taken in several other decisions also e.g.. Union of India v. G. Ganayutham 1997 SCC 1806. The Supreme Court in Tata Cellular's case, (supra) referred to Wednesbury principle of unreasonableness. The Supreme Court referred to several decisions of British, American and Indian Courts wherein it was held that the words "unreasonable" had several meanings. The Court should not interfere merely because it takes a view from that of the administrative authority, and it can interfere only if the decision is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it vide Lord Diplock's judgment in Council of Civil Service Unions v. Minister for the Civil Services. 1985 (1) AC 374.

9, In Associated Provincial Picture Houses Limited v. Wednesbury Corpn. (1947) 2 All ER 680, the Wednesbury principle was defined by Lord Greene in the following manner :

"The decision of a public authority will be liable to be quashed or otherwise dealt with by an appropriate order in Judicial review proceedings where the Court concludes that the decision is such that no authority properly directing itself on the relevant law and acting reasonably could have reached It."

10. In Tata Cellular's case, the Supreme Court also referred to the views of eminent jurists like Schwartz who emphasised Judicial restraint in judicial review in administrative matters, since Judges were not experts. The Court will only interfere if the authority acts unfairly and in violation of law, if the decision making body is influenced by considerations which ought not influence it, or fails to take into account matters which it ought to take into account, the Court will interfere. Similarly, if the decision making body comes to its decision on no evidence or comes to a finding so unreasonable that no reasonable person would have come to it the Court can interfere. However, the Court should not substitute its judgment for the judgment of the administrative authority unless that Judgment is wholly perverse. As observed by Prof. Wade in his "Administrative Law" : "The point to note is that a thing is not unreasonable in the legal sense merely because the Court thinks it is unwise. The administrative test of reasonableness is not the standard of a reasonable man in Tort Law.

11. In the light of the above decisions of the Supreme Court in Tata Cellular's case, and other cases, we are of the opinion that it cannot be held that the authorities acted arbitrarily in the matter by cancelling the examination. In such matters, this Court should not ordinarily substitute its sown wisdom for that of the administrative authority.

12. In similar circumstances, a Division Bench of this Court in Union of India and others Vs. Akchhay Kumar Singh and others, refused to interfere in the cancellation of the examination of selection In the railways. This Court relied on

De Smith's Judicial Review of Administrative Actions and has held that all that is required by the authority is that it should act in good faith and its decision should not be influenced by any extraneous consideration. We do not find any bad faith in the authority in the present case, or any extraneous consideration.

13. Hence there is no force in this petition and it is dismissed accordingly.