

(2013) 10 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 692 of 2013

Rajasthan State Road Transport Corporation and Others

APPELLANT

Vs

Jitendra Singh

RESPONDENT

Date of Decision : 01-10-2013

Acts Referred:

Citation : (2014) 1 WLN 243

Hon'ble Judges : Amitava Roy, C.J;P.K. Lohra, J

Bench : Division Bench

Advocate : Harish Purohit, for the Appellant;

Final Decision : Allowed

Judgement

Amitava Roy, C.J.—In assailment is the judgment and order dt. 30.05.2013 passed in S.B. Civil Writ Petition No. 6633/2012 thereby requiring the appellants herein to grant 5 marks to the respondent-writ petitioner and to consider him for appointment in the traffic cadre if he merits the same on the basis of his performance. We have heard Mr. Harish Purohit, learned counsel for the appellants (respondents in the writ petition) and Mr. Jitendra Singh respondent-writ petitioner present in person.

2. Briefly stated the relevant facts are that the respondent-writ petitioner in response to the advertisement No. 1623 dt. 30.08.2011 initiating the process of recruitment to the traffic cadre with the Rajasthan State Road Transport Corporation (for short, hereafter referred to as "the Corporation") had submitted his candidature. In terms of the Rajasthan State Road Transport Corporation Employees Regulations, 1965 (for short, hereinafter referred to as "the Regulations"), the evaluation of the candidates was to be on the basis of 100 marks apportioned as hereunder:--

The marks allocated for work experience were computable as hereinbelow:--

3. According to the respondent-writ petitioner, being considered to be eligible for

the post in the traffic cadre, he was issued a call letter by the Corporation and he took written examination held at Jodhpur Centre on 18.12.2011. The final list of successful candidates was published on 02.06.2012 and his name appeared in the category of unsuccessful candidates being shown to have secured 65.67 marks out of 100. The respondent-writ petitioner has averred that he was awarded 60.67 out of 80 marks in the written examination and 5 marks for his higher qualification i.e., 2 years PG degree making the total tally 65.67. His grievance is that he has not been awarded any mark for "work experience" despite the fact that he had been working on the post of Teacher in the regular pay scale under the State Government for more than 3 years and 8 months by the cut off date. The respondent-writ petitioner has pleaded that he has specifically mentioned this fact of work experience in the relevant column of the application form but he was arbitrarily denied any mark therefor though required as per the scheme of allotment thereof. He has contended that had he been awarded 5 marks on the basis of his work experience, he would have been selected. According to him, being aggrieved, he submitted a representation before the Corporation on 04.06.2012 and thereafter, also applied under the Right to Information Act, 2005 for disclosing the reasons for not awarding him 5 marks for work experience. The respondent-writ petitioner has averred that the Corporation on receipt of his representation did admit its mistake of not awarding 5 marks to him qua his work experience, however, as it, notwithstanding this, proceeded to act upon the select list dt. 02.06.2012, he approached this Court seeking redress.

4. In its reply, the Corporation has pleaded that the respondent-writ petitioner had applied for the post in question online but denied categorically that he had mentioned about his work experience therein. It, on the other hand, contended that the respondent-writ petitioner had mentioned "No" against the column of work experience. It alleged further that the copy of the application form annexed to the writ petition is different from the one actually submitted by him. It admitted that as the respondent-writ petitioner had not mentioned about his work experience in his application form, no mark was awarded to him on that count.

5. The learned Single Judge, however, allowed the writ petition and issued directions as mentioned hereinabove. Aggrieved thereby, the Corporation has preferred this appeal.

6. Mr. Purohit has insistently argued on the basis of the original records that the respondent-writ petitioner had not mentioned about his work experience either on his online application or in the hard copy as required by the advertisement and thus, he was rightly not awarded any mark on that count. Referring to the data generated by the system applied on receipt of the online applications of the candidates, the learned counsel has argued that the same on the face of it would disclose that the respondent-writ petitioner had not disclosed his work experience against the prescribed column and thus, his plea to the contrary

being belied by the contemporaneous records ought not to be entertained. As admittedly, on the basis of the marks secured by the respondent-writ petitioner he was not qualified to be appointed, the learned Single Judge had erred in law and on facts in issuing the directions for awarding him 5 marks and to consider his case for appointment, he urged.

7. Per contra, the respondent-writ petitioner present in person has insisted on the basis of the copy of the application form annexed to the writ petition that as would be evident therefrom that he had clearly mentioned about his work experience to be 3 years and 8 months, he deserves to be allotted 5 marks as per the scheme of the selection and denial thereof has been wholly arbitrary and whimsical. According to him, the learned Single Judge had correctly analyzed the documents and the facts contained therein and thus, no interference with the impugned judgment and order is called for.

8. We have considered the pleadings as well as have applied ourselves to the arguments advanced.

9. It is not disputed that in case the respondent-writ petitioner is not awarded the 5 marks as claimed by him on account of work experience, he would not be qualified to be included in the list of successful candidates. In terms of the advertisement dt. 30.08.2011 initiating the process of selection, it is clear that the candidates were required to first submit the online application and thereafter, to despatch the copy thereof alongwith the requisites as prescribed to the office of the Corporation. In other words, both the online application and the hard copy thereof were to be submitted by the candidates to the Corporation for validly offering their candidature in the process. There is no dispute about the scheme of allotment of marks as referred to hereinabove and it is apparent that if the respondent-writ petitioner's work experience of 3 years and 8 months is reckoned, he is entitled to additional 5 marks on that count.

10. A bare perusal of the copies of the online application of the respondent-writ petitioner and of the one despatched by him to the Corporation as required by the advertisement (as available in the records of the Corporation) discloses that no particulars of his work experience had been mentioned therein. To the contrary, the copy of the online application claimed to have been submitted by the respondent-writ petitioner and annexed to his writ petition mentions it to be 3 years and 8 months. A photo copy of the print out generated by the system applied on receipt of the online applications of the candidates, as produced in course of the arguments by the Corporation, however, demonstrates that the respondent-writ petitioner had not mentioned the details of his work experience.

11. The key to this conundrum having regard to the singular facts and circumstances essentially is the comparative credibility and reliability of the competing documents. As it is, there is always a presumption, rebuttal though, of validity of an official action. Applying this proposition, the records produced on behalf of the Corporation and as referred to hereinabove are, in our

comprehension, more acceptable. Except contending that the action of the Corporation in denying him marks against his work experience to be discriminatory, mala fide and biased, the respondent-writ petitioner has not been able to prove these allegations. We do not construe in the facts and circumstances of the case, having regard to the entire gamut thereof that there exists any credible evidence against the Corporation to discard its records and sustain the copy of the online application filed by the respondent-writ petitioner. We are thus of the unhesitant view that the Corporation's stand based on records ought to be sustained. Ordered accordingly. We have perused the impugned judgment and order and find ourselves in respectful disagreement with the reasons recorded and the conclusions arrived at. We are thus constrained to interfere therewith. It is thus set aside. The appeal is allowed. No costs.