
(2009) 07 SHI CK 0035
In the High Court Of Himachal Pradesh

Rajesh Kumar

APPELLANT

Vs

H.P.S.F.C. and Others

RESPONDENT

Date of Decision : 24-07-2009

Acts Referred:

Citation : (2009) 3 ShimLC 338

Hon'ble Judges : Surinder Singh, J;Deepak Gupta, J

Bench : Division Bench

Judgement

Surinder Singh, J.—The petitioner, in this petition, contended that he was a topper in written/practical test for the post of Plumber and was also called for the interview held on 30.8.2008, but was held ineligible for want of requisite experience, whereas respondent No. 3 who was less meritorious was appointed, thus he alleged grave injustice, as such sought the following reliefs:

(i) that the appointment order of respondent No. 3 contained in Annexure P-9 may kindly be quashed and set aside by issuance of writ of certiorari; and

(ii) that a writ of mandamus may be issued to respondents No. 1 and 2 for considering the petitioner for appointing him as Plumber/ Fitter.

2. We heard the learned Counsel for the parties on 8.7.2009 and the judgment was reserved. Precisely, the contention of the petitioner was that besides the proof of educational qualification, he had also submitted requisite experience certificate issued by respondent No. 2 which fact was denied in reply but reasserted in rejoinder by the petitioner. Thus, we felt the necessity to peruse the record of respondents to find out the truth in the contention raised before us by the petitioner, therefore, vide order dated 14.7.2009, we directed to produce the application of the petitioner, for the said post with all the documents appended thereto. On 20.7.2009, the said record was produced and perused by us which did contain the requisite certificates.

3. In fact, the respondents No. 1 and 2 had invited the applications for filling up the post of Plumber/Fitter on contract basis, a skilled post, from the candidates

having the following qualifications:

(a) the candidate should be minimum matriculate with ITI certificate in Fitter trade; and

(b) having minimum two years experience in an Industry/Factory.

4. The petitioner had passed out 10+2 examination in the year 2003 from the H.P. Board of School Education (Annexure P1) and in the designated trade of Plumber he had undergone the apprenticeship training in the establishment of respondent No. 2, for a period of two years and was awarded the certificate (Annexure P2) which find enclosed with his application in the record of respondents.

5. The petitioner after completing the said apprenticeship training also worked as a duly registered Contractor with the PWD and applied for the post of Plumber/Fitter with requisite documents. He appeared for the written trade test and practical on 30.8.2008 under Roll No. 517 and qualified both these tests. He was also called for the personal interview, but was found to be ineligible for want of requisite experience.

6. The contention of the respondents No. 1 and 2 that the petitioner had only produced the experience certificate (Annexure P6) issued by M/s. Ashok Kumar Gupta & Company, which is not a factory or industry.

7. The record of respondents perused by us shows that the experience certificate issued by respondent No. 2 was annexed with the application by the petitioner thus the affidavit of the Jang Bahadur, General Manager of respondent No. 2 in support of reply that no such experience certificate was produced is false. We take a serious note and exception to the placing of incorrect facts before the Court by a responsible officer, but instead of going for contempt, we record a word of caution not to repeat such type of mistake in future. Thus, we would like to saddle the respondent No. 2 with costs.

8. Since the petitioner was wrongly held ineligible, therefore, the selection and appointment of respondent No. 3 cannot be protected.

9. Thus, for the foregoing reasons, we allow this petition and quash the appointment of respondent No. 3 with costs quantified at Rs. 2,000 to be paid by the respondent No. 2 to the petitioner. However, the respondent No. 2 is left at liberty to recover the amount of cost from the defaulting officer and we further direct that the respondents No. 1 and 2 shall fix the date for the interview of the petitioner within one month from today, and redraw the merit list by adding the marks obtained therein for the appointment to the post of Plumber/Fitter on contract basis.