
(2009) 05 P&H CK 0065
In the Punjab And Haryana At Chandigarh

Rajesh Kumar

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 19-05-2009

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2009) 155 PLR 553

Hon'ble Judges : Satish Kumar Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—The petitioner, who is a practising Advocate at Civil Courts, Mohindergarh, has filed the instant petition for issuing direction to the respondents to call him for interview for the post of Manager (Legal), advertised by respondent No. 2-Haryana State Industrial and Infrastructure Development Corporation Limited, vide advertisement Annexure P-I.

2. In this case, in the month of September, 2008, vide advertisement Annexure P-I, four posts of Manager (Legal) were advertised, out of which two posts were reserved for the Scheduled Caste category, one post each was reserved for the Backward Class and Ex-Serviceman. For these posts, the following qualification and experience were required:

Graduate (2nd Division) L.L.B. Professional (2nd Division) with at least 2 years relevant post qualification experience in Government/Commercial Organisations/ Financial Institutions/Banks in drafting of deeds/agreements/terms/conditions/ examinations of legal documents and pursuing of legal cases

The petitioner considering himself fully eligible for the aforesaid post applied to respondent No. 2 with certificates of requisite qualification in Category of Backward Class and Ex-Serviceman, before the last date.

3. It is the case of the petitioner that he possesses the requisite qualification and

experience for the post of Manager (Legal), but he has not been illegally called for the interview. He is M.A. in English and is having L.L.B. (Professional) Degree with 57% marks. With his application and with the petition, the petitioner has annexed the Certificate (Annexure P-2), issued by the President, Bar Association, Mohindergarh, certifying that the petitioner is practising as Advocate at Civil Courts, Mohindergarh, for more than three years and he is having working knowledge of drafting and examination of deeds, agreements and documents, of pursuing legal cases in Courts as well as in Tribunals. The petitioner has also annexed another Certificate (Annexure P-3), issued by the President of the Legal Awareness and Welfare Society, certifying that the petitioner is working as Vice President of the Society for more than two years and he has active and dynamic role in the legal awareness among the general masses, anti corruption campaigns and in the eradication of various other associated legal problems. The petitioner has also annexed a Certificate (Annexure P-4), issued by Sharma and Singh Associates, Advocates, Civil Courts, Mohindergarh, certifying that the petitioner is a partner in that Association for more than four years and has the working experience of drafting, pleadings, conveyance, examination and searching of legal documents, matters relating to finance, hypothecation, banking and has exposure in the legal matters in the Civil Court, Criminal Court, Revenue Court and other Tribunals and Lok Adalats. On the basis of these Certificates, the petitioner claims himself to be fully eligible as having requisite experience for the aforesaid post, but he was not called by the respondents for interview, without any justification and reason. It is also averred in the petition that requiring the experience in Government/Commercial Organisations/Financial Institutions/Banks in drafting deeds and agreements etc. is also unconstitutional, as an Advocate, who possesses similar experience, while practising in the Court of law has been excluded arbitrarily..

4. In the written statement, filed on behalf of respondent No. 2, it has been stated that 33 applications were received for the aforesaid posts, out of which 9 candidates were shortlisted on the basis of the qualification and experience, prescribed for the post. Since the petitioner was found not having the requisite experience, therefore, he was not considered eligible to be called for interview. Regarding the unconstitutionality of the requisite experience, it has been stated that the employer is the best judge of his requirement. It is further averred that the experience required for the post in question cannot be said to be arbitrary and unconstitutional or violative of the right to equality in the matter of employment, as enshrined under Article 16 of the Constitution of India.

5. I have heard the arguments of learned Counsel for both the parties. In my opinion, respondent No. 2 has rightly found the petitioner not possessing the requisite experience for appointment on the said post. The petitioner does not have 2 years requisite experience in Government/Commercial Organisations/Financial Institutions/Banks in drafting of deeds/agreements/terms/conditions/examinations of legal documents etc. He is only a practising Advocate and the experience certificate, annexed with the petition, which was alleged to have been

annexed with the application also, does not relate to the Government/Commercial Organisations or Financial Institutions/Banks. As a practicing Advocate, he may have the experience of drafting the deeds, agreements and perusing the legal cases, but the required experience for the post in question is from the Government/Commercial Organisations/Financial Institutions/Banks. It is for the employer to lay down the experience and qualification for a particular post. Merely because respondent No. 2 Corporation, which is a Commercial/Financial Organisation, requires a particular type of experience, it cannot be said that the said requirement is arbitrary and unconstitutional. The experience of a practising Advocate is entirely different from the experience of a Law Graduate working in the Government/Commercial Organisations/Financial Institutions/Banks. It is the prerogative of the employer to require a person possessing particular qualification and experience. There is no allegation in the present writ petition that respondent No. 2 Corporation has laid down the required qualification and experience with malafide intention or with oblique motive to favour a particular person. Therefore, I do not find any illegality in the action of respondent No. 2 Corporation in not calling the petitioner for interview for appointment on the said post.

6. In the instant petition, the petitioner has also annexed an experience certificate (Annexure P-5), submitted by Shri Vijayveer Singh, one of the selected candidates. It was issued by Chinar Syntex Ltd., Bhiwani, concededly a Commercial Organisation, to the effect that the said candidate has worked with the Company for more than two years as a Law Officer-cum-Personal Manager. The said experience certificate given by Shri Vijayveer Singh was rightly accepted, being an experience from a Commercial Organisation.

7. Thus, I do not find any merit in the instant petition and the same is, hereby, dismissed.