
(2011) 06 SHI CK 0157
In the High Court Of Himachal Pradesh
Case No : CWP No. 509 of 2011

Rakesh Sharma

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 28-06-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16

Citation : (2011) 06 SHI CK 0157

Hon'ble Judges : Kurian Joseph, C.J.; Sanjay Karol, J

Bench : Division Bench

Judgement

Sanjay Karol, J.—Applications were invited vide notice dated 27.10.2010 published in the daily newspaper, for filling up the post of Block Accountant on contract basis under the National Rural Health Mission for the office of the Block Medical Officer, Tehsil Amb, Distt. Una, H.P. Amongst others Petitioner Sh. Rakesh Sharma and private Respondent Smt. Anupam Sharma applied for the same. They were interviewed on 29.11.2010 and with the completion of the selection process name of private Respondent was recommended, and was issued letter of appointment. The said decision has been assailed by the Petitioner on the ground that not only the Petitioner belonging from IRDP/BPL family, was more meritorious, possessing knowledge and experience of computerized accounts but private Respondent was otherwise ineligible. Also according to the Petitioner there was no objective criteria laid down by the Selection Committee which has vitiated the entire selection process.

2. During the course of hearing it was not disputed that Petitioner was otherwise eligible for appointment. That private Respondent was more meritorious also cannot be disputed. Petitioner himself has participated in the selection process and thus it would not be open for him, at this stage, to submit that the entire selection process is vitiated for want of any objective criteria. Significantly neither has the Petitioner alleged malafides nor has he given any specific instance thereof. Selection of the private Respondent cannot be found to be

illegal in any manner.

3. However, it is equally true that Respondents have not laid down any criteria/ guidelines for awarding marks under different heads such as academic qualification, experience etc. for preparing the merit list.

4. Absence of any specified criteria, bringing the element of personal evaluation, is perhaps likely to open the door to the abuses of nepotism and favouritism and thus violate Articles 14 and 16 of the Constitution of India. Assessment has to be on the basis of some objective criteria. Abuse of arbitrary powers would only result into inefficient handling of public business, effecting public interest. The object and purpose of selection is to have more meritorious and suitable persons. The best possible incumbent enabled to serve, in public interest is to be selected and appointed for which there has to be some guidelines/criteria, absence of which would only render, even in a case of correct subjective assessment, the order of selection open to suspicion.

5. The Constitutional Bench of the Supreme Court in Sant Ram Sharma Vs. State of Rajasthan and Another, has clarified that even in the absence of statutory rules governing promotion, it would be open for the Government to issue administrative instructions. The power of this Court to issue directions to the State Government for framing the rules is no longer res integra. The Apex Court in Nagpur Improvement Trust Vs. Yadaorao Jagannath Kumbhare and Others, had the occasion to deal with the case where a direction was issued by the High Court to the appropriate Government to frame rules in exercise of its statutory powers. Such direction was upheld by the Apex Court.

6. In these circumstances we direct Respondent No. 1 to consider issuing instructions or framing guidelines/rules laying down objective criteria for selecting the candidates in future for the post in question. Needful shall be positively done within a period of four months from the date of receipt of certified copy. Petition stands disposed of so also the pending application(s) if any.