
(2012) 05 AHC CK 0047
In the Allahabad High Court
Case No : C.M.W.P. No. 50684 of 2006

Ramesh Chandra Sonkar

APPELLANT

Vs

Managing Director, U.P.S.R.T.C., Lucknow and others

RESPONDENT

Date of Decision : 11-05-2012

Acts Referred:

Citation : (2012) 5 AWC 4974

Hon'ble Judges : B. Amit Sthalekar, J

Bench : Single Bench

Advocate : Rohit Kumar Singh, Pawan Shukla and Ishwar Chandra, for the Appellant; B.R. Gupta, Ajay Kumar Srivastava and Samir Sharma, for the Respondent

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J.—This writ petition has been filed by the petitioner for a direction to the Regional Manager, U.P.S.R.T.C.. Allahabad, respondent No, 3 to issue an appointment letter in favour of the petitioner on the post of bus driver. The facts of the case, in brief, are that the petitioner applied for the post of bus driver in the Uttar Pradesh State Roadways Transport Corporation from Allahabad Region. He appeared in the examination at the regional level and qualified the first phase. He has further stated that he cleared the final phase of the examination and was declared successful by the Principal, Training Centre, Kanpur and secured 10 marks out of 25. By the letter dated 19.10.2005 he was informed that he had been selected. However, when no appointment letter was issued to him he made inquiries and was orally informed that there was some problem in his eyes, the same would be re-examined at Head Quarter, Lucknow. The contention of the petitioner is that he had already been medically examined by the Chief Medical Officer, Allahabad and had been declared fit and no problem was found in his eyes.

2. I have heard Sri Rohit Kumar Singh, learned counsel for the petitioner and Sri Samir Sharma, learned counsel for the respondents.

3. The submission of learned counsel for the petitioner is that once he had already been medically examined and declared fit by the Chief Medical Officer, Allahabad, there should not have been any further impediment in issuing the letter of appointment to him.

4. Rebutting the submissions of learned counsel for the petitioner. Sri Samir Sharma, on the other hand, submitted that the post of bus driver was duly advertised and those candidates, who possessed the minimum qualification, had to undergo a second test. The first test would be at the regional level and would be the qualifying test. Those candidates, who qualify the test would, thereafter, be sent to the Training Institute at Kanpur where another test would be conducted and those candidates, who clear the test, would be given appointment on the post of bus driver. It is not disputed that the petitioner cleared both the tests and by the letter dated 19.10.2005 he was required to complete the remaining formalities for being given appointment on the post of bus driver.

5. The letter dated 19.10.2005 has been filed as Annexure-2 to the writ petition and one of the documents required, was the certificate of fitness from the Chief Medical Officer. The submission of Sri Samir Sharma is that at the time of second test the candidates seeking appointment to the post of bus driver have to undergo a medical examination and until the report of the said medical examination is not available no appointment would be issued which fact was mentioned in the select list dated 20.10.2005 itself. The order dated 20.10.2005 has been filed as Annexure-1 to the counter-affidavit. In the medical examination, which is conducted by the Medical Board appointed by the Medical Council of Uttar Pradesh, the petitioner was found to be partly colour blind. In the counter-affidavit filed on behalf of respondents it is also stated that after this medical report second opinion was sought from the King George's Medical College. Lucknow. The Head of Department Ophthalmology. King George's Medical University. Lucknow vide his letter dated 29.4.2005 filed as Annexure-2 to the counter-affidavit has opined that a candidate for the post of bus driver found to be colour blind licence should not be given to him as it would interfere with his vision particularly during night driving. Along with the counter-affidavit a circular dated 29.8.2006 has also been filed, which clearly mentions that for the safety of passengers, a person suffering from partial colour blindness should not be appointed as bus driver.

6. This Court by its order dated 29.7.2011 had directed the respondents to allow the petitioner to be re-examined by the Medical Board or by the Chief Medical Officer of a Government Hospital and a report be obtained with regard to the alleged partial colour blindness of the petitioner and place the report before the Court.

7. A supplementary counter-affidavit has been filed today annexing copy of the second medical report conducted by the Medical Board. This report confirms that the petitioner suffers from partial red-green colour blindness and specifically states that with this condition of sight he is not fit for appointment as driver.

8. Sri Samir Sharma has also drawn the attention of the Court to Form 1A of the Central Motor Vehicle Rules, 1989. Para-3, thereof, specifically requires it to be stated that to be "applicable for the post of driver" it is necessary to justify pigmentary colours red and green.

9. Since the Medical Board at the time of second test conducted on the orders of the Court had declared the petitioner to be partially colour blind so far as colours red-green are concerned and the second Medical Board had endorsed the view of the first medical test had also opined that in such circumstances, the petitioner was not fit for appointment as a bus driver, this Court cannot take any other view except to accept the view of the experts of the Medical Board, which has the approval of the U.P. Medical Council.

10. Even otherwise in a case of partial colour blindness if the Medical Board has taken the view that the petitioner is not fit for appointment as a bus driver, no direction can be given to the respondent No. 3 to appoint the petitioner thereby endangering the lives of the passengers of the bus as well as putting the members of the public to a grave threat to their lives. In the circumstances, this writ petition fails and is, accordingly, dismissed. By order dated 27.4.2012 this Court had directed respondent No. 3, Regional Manager, Uttar Pradesh State Roadways Transport Corporation, Allahabad to be present in Court. He is present in the Court. However, since the petition stands dismissed his presence is no longer required.