

(2002) 01 DEL CK 0054

In the Delhi High Court

Case No : Civil Writ Petition No. 2316 of 2000

Ranbir Singh

APPELLANT

Vs

D.S.S.S.B. and Another

RESPONDENT

Date of Decision : 18-01-2002

Acts Referred:

Citation : (2002) 3 AD 537

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Pradeep Nandrajog, for the Appellant; Ravi Dutt, for the Respondent

Final Decision : Allowed

Judgement

Sanjay Kishan Kaul, J.—A request is made on behalf of counsel for the respondent that the counsel is not available. This is a matter relating to an appointment to the post of a teacher of army personnel and the matter is pending for quite sometime. On the last date of hearing the counter had not been filed despite opportunities and thus last opportunity was granted to file counter affidavit and the matter was directed to be finally heard today. I see no reason why the matter should be adjourned and Therefore instructed the counsel present to address on behalf of the respondent.

2. Rule.

3. The writ petition has been filed under Article 226 of the Constitution of India for direction to respondent No. 2 to appoint the petitioner to the post of Primary Teacher and to grant the seniority and all other benefits.

4. The petitioner was recruited in the Indian Navy on 5.6.1975 and on 10.2.1976 passed Boys Training Establishment Examination of the Indian Navy Which is equivalent to the High Secondary Examination. The petitioner was thereafter enrolled as Telegraphist in the Indian Navy.

5. It is relevant to state that instructions for use of guide to Navy Trades in

Employment Exchange have been issued and in terms of Serial No. 20(c) dealing with the case of POR (Tel) like the petitioner, the service of seven years qualifications in civil trade equivalent includes Primary School Teacher. The Ministry of Labour, Government of India, had issued an office memorandum in November 1985 for equation of trades of Indian Armed Force with civil occupations to facilitate registration of ex-service men for employment assistance through the Employment Exchange (Annexure P-3).

6. The petitioner continued to be in service for more than 16 years and retired as Petty Officer Radio (Special) on 31.12.1991. The service report of the petitioner filed by him also shows the Civil Trade Equivalent to Primary School Teacher at page 20.

7. On 11.6.1998 respondent No. 1 invited applications for eligible candidates to be appointed as primary teachers for respondent No. 2 - MCD. The petitioner applied for the said post in view of the certificate of equation of service trades/qualifications with Civil Trades/qualification dated 26.6.1998 and forwarded the same to MCD. The petitioner was considered in the category of ex-service men. The petitioner received a letter from respondent No. 2 dated 29.10.1999 to report for verification of original documents. It is stated in the petition while other candidates were selected, the petitioner was not issued an appointment letter. Petitioner sent representation to respondent No. 2 but no response was sent by the said respondent.

8. In the counter affidavit filed on behalf of the respondent No. 2, it is stated that the petitioner did not fulfill the minimum qualifications inasmuch as recruitment rules prescribed a regular formal teaching course from a recognised institute. It is thus stated in the counter affidavit that the examination passed by the petitioner from the Indian Navy is neither equivalent nor amounts to equivalent to examination of a teacher training certificate. It is further averred in the counter affidavit that the High Power Committee after considering the case of the petitioner rejected the case because the petitioner does not fulfill the recruitment regulations.

9. I have heard the learned counsel for the parties. The only short issue to be examined is whether the qualifications of the petitioner fall within the parameters of the recruitment regulations requiring the teachers training certificate. The recruitment regulations of the respondent No. 2 corporation is keeping in mind the civil degrees. Further what is to be appreciated is that to facilitate army personnel who retire from service and seek employment, equalisation procedure has been prescribed and recognised by the Government of India. It is pursuant to this equalisation procedure that the petitioner is granted a certificate equating his qualifications to a Teacher Training Certificate.

10. In my considered view it is thus not open to the respondent - Corporation to hold that the petitioner is not qualified. The purpose of such equalisation is that since the army personnel has been in service for number of years and in that

process acquire different qualifications, equalisation certificates and degrees be issued to them. In the case of petitioner, he has been issued a equalisation certificate to a second division in High Secondary Award Certificate dated 10.2.1976 (Annexure P1) in terms of the Government of India, Department of Personnel Administrative Memorandum, a certificate equivalent to a graduation award certificate dated 17.12.1991 (Annexure P6) and certificate to the effect that his qualifications are equivalent to a primary School teacher in terms of a certificate dated 26.6.1998 (Annexure P-7). The petitioner is thus liable to be so appointed.

11. A writ of mandamus is thus issued directing the respondent No. 2 appoint the petitioner to the post of primary teacher treating the petitioner as qualified for the said post along with all consequential benefits of seniority as well as monetary benefits.

12. The writ petition is allowed in the aforesaid terms with costs of Rs. 5000/-.