

(2005) 05 DEL CK 0019
In the Delhi High Court
Case No : WP (C) 8451 of 2005

R.S. Misra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-05-2005

Acts Referred:

Citation : (2005) 121 DLT 20 : (2005) 82 DRJ 710

Hon'ble Judges : Rekha Sharma, J;Dr. M.K. Sharma, J

Bench : Division Bench

Advocate : M.K. Bhardwaj, for the Appellant; S. Rajappa, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, J.—The petitioner herein was working as P.G.T. (Chemistry) with the respondent No. 1 since July, 1976. An advertisement was issued by the respondent sometime in the month of June, 1986 calling for applications for filling up certain vacancies in the post of Principal in Kendriya Vidyalaya Sangathan (in short 'KVS') against Direct Recruitment Quota. The petitioner also submitted an application as against the aforesaid advertisement praying for considering his case for such appointment to the post of principal-KVS against the Direct Recruitment quota. The petitioner was called for the interview for the purpose, wherein he appeared and he was interviewed by the Selection Committee constituted especially for the aforesaid purpose.

2. The grievance of the petitioner is that although he was selected in the said selection by the said Committee, he was not appointed as against one of the aforesaid vacant posts of Principal-KVS, due to the bias on the part of the respondent. In order to prove bias, the petitioner has alleged before the Tribunal and also before this Court that while he was working as Principal, proceedings were drawn up against him on charge of misconduct which ultimately came to be dropped. It is also alleged that even despite the said order of dropping the charge and closure of the proceedings, his consequential benefits were not paid

which according to the learned counsel proves and establishes bias against the petitioner. The petitioner was reinstated in service sometime in September, 2002. In the meantime, the petitioner submitted certain representations before the respondent authority requesting them to give effect to his order of appointment as a Principal of KVS, pursuant to the aforesaid selection. But, it is alleged that all the said representations were disposed of by the respondents intimating the petitioner that since a departmental proceeding is pending against him, such representations cannot be entertained at that stage.

3. The petitioner relying upon the aforesaid communications issued by the office of the respondents, filed a petition before the learned Central Administrative Tribunal (for short 'the Tribunal') praying for a direction to the respondents to give effect to the order of appointment as Principal. The aforesaid petition was contested by the respondent who filed a reply contending, inter alia, that the petitioner was not selected in the aforesaid selection held for the purpose of appointment to the post of Principal and, Therefore, the allegations of the petitioner are all motivated and false and consequently, without merit. In order to decide the dispute raised, the learned Tribunal also called for the records including the minutes of the Selection Committee which was perused and considered.

4. After hearing the counsel appearing for the parties, a reasoned order was passed by the learned Tribunal holding the application filed by the petitioner as not maintainable and without any merit.

5. Being aggrieved by the aforesaid order passed by the learned Tribunal, the present petition is filed before this Court wherein the impugned judgment and order of the Tribunal is under challenge.

6. The arguments as advanced before the learned Tribunal are also advanced before us by the counsel for the petitioner. He has drawn our attention to the aforesaid communication which are placed at page Nos. 96, 97 and 98 of the paper-book which letters were issued by the KVS, but the said letters were written at the level of Assistant Commissioner. The counsel appearing for the respondent however disputes the intimations sent through those letters that the petitioner was selected. According to the learned counsel appearing for the respondent the Assistant Commissioner is not the appointing authority for the post of principal and it is the Commissioner of the KVS who is the appointing authority of the Principal. It is submitted by him that unless and until it could establish that any letter is written by the Commissioner appointing the petitioner as the principal of the KVS, no statement could be accepted that the petitioner was duly and validly appointed as the principal of the school.

7. We have looked into the records to appreciate the contentions raised on behalf of the parties before us. Admittedly, the petitioner applied for being appointed as against one of the vacant posts of Principal for which the advertisement was issued by the respondent. The petitioner was also called for the interview. To the

aforesaid extent Therefore there is no dispute at all. Minutes of meeting of the Selection Committee are placed before us. We have perused the same.

8. The Selection Committee comprised of eminent and responsible persons. The minutes of the meeting which are signed by the members of the said Selection Committee prove and establish that the petitioner was not selected by the Selection Committee. Altogether, 284 candidates were called for the interview, out of whom 264 candidates appeared in the interview for the aforesaid post of Principal in the KVS. There were altogether 31 vacancies to be filled by Direct Recruitment Quota and after interviewing the candidates, the Selection Committee recommended names of 40 candidates from the general category and one candidate from the scheduled caste community. 19 persons were kept in the reserved list. The name of the petitioner was not included under any of the aforesaid categories. The marks obtained by the petitioner during the interview have been seen by us. The said records indicate that the person obtaining 50 per cent and above were selected and appointed. The petitioner herein obtained only 30 marks. Therefore, we find no infirmity in the finding and the conclusions arrived at by the Tribunal that the petitioner was not selected for appointment to the vacant post of principal of KVS.

9. One of the submissions of the counsel appearing for the petitioner is that the said records have been manipulated by the respondents. The said submission is ex facie not tenable as the records appear to us to be genuine and maintained in the official course.

10. In view of the aforesaid position, there could not have been any order of appointment from the end of the respondents appointing the petitioner as Principal of this KVS. There is no order placed on record by the petitioner appointing the petitioner as the Principal of KVS which is issued by the Assistant Commissioner of KVS who is the competent and authorized person to issue an appointment letter in respect of the Principal. There is no dispute to the fact that he is the appointing authority of the Principal of KVS. The letters placed on record were issued by the Assistant Commissioner and they are not even appointment letters. There is only reference in those letters to alleged selection of the petitioner which is definitely contrary to and inconsistent with the records. The said letters Therefore cannot be of any assistance to the petitioner to substantiate his pleas.

11. So far as the issue with regard to delay in filing the original petition before the Tribunal is concerned, the cause of action for the same had arisen sometimes in 1986. The plea taken for explaining the delay in filing the application by the petitioner is also based on the said letters which are contrary to records. Therefore reliance on those letters for the purpose of explaining the delay is misplaced and the plea is found to be without merit.

12. In view of the discussions made here-in-before and in terms thereof, we hold that there is neither any illegality nor any irrationality in the order passed by the

learned Tribunal. The petition has no merit and the same stands dismissed.