
(2001) 05 DEL CK 0077

In the Delhi High Court

Case No : C.W. No. 6044 of 2000 and C.M. No. 9261 of 2000

Shri Jagmohan Puri

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 17-05-2001

Acts Referred:

Citation : (2001) 05 DEL CK 0077

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

Bench : Single Bench

Advocate : Mr. Pradeep Nandrajog and Mr. Bhupinder Singh Saini, for the Appellant; Mr. Maninder Singh and Mr. Dheeraj Nair, for the Respondent

Final Decision : Dismissed

Judgement

Dr. Mukundakam Sharma, J.—The petitioner being aggrieved by the actions of the respondents NO.2 to 4 in calling the respondent No.5 for the interview for filling up the post of Head of the Department (Food Production) and also for not calling the petitioner for interview to the said post has filed this writ petition in this Court seeking for quashing of the call letter issued to the respondent No.5 and the interview held pursuant to the aforesaid call letter and also for quashing the letter dated 21st September, 2000, whereby the respondent No.2 cancelled the call letter for interview issued to the petitioner.

2. The petitioner was initially appointed as a Demonstrator with the respondent No.4. He was later on appointed to the post of Assistant Instructor (Bakery Department) on 22nd September, September, 1978 in which post the petitioner was confirmed on 30th November, 1979. It is alleged in the petition that the petitioner was made In-charge of the Bakery Department on 3rd July, 1990 and that from the said date the petitioner is holding the said charge. It is also alleged in the writ petition that the respondent No.5 is working on ad hoc basis as In-charge of Food Production Department with effect from 14th August, 1992. It is further alleged that although the petitioner is senior to the said respondent No.5 in service, the respondents No.2 to 4 acted illegally in showing the petitioner as

junior to the said respondent No.5 as against which a writ petition is filed by the petitioner in this Court which is registered as C.W.P. No. 939/1995 which is pending disposal in this Court.

3. An advertisement was published by the respondent No.2 to 4 in the Newspaper calling for applications for filling up various posts of Head of the Department, pursuant to which, the petitioner as also the respondent No.5 along with other candidates submitted their applications for the aforesaid post. The petitioner as also the respondent No.5 along with other candidates were called for the interview. However, the respondent No.2 to 4 not only cancelled the call letter issued to the petitioner but also cancelled the interview scheduled to be held on 4th October, 2000. It is alleged that a new set of call letters were issued by the respondents No.2 to 4 only to seven persons for the interview scheduled to be held on 10th October, 2000 on which date an interview was conducted and names were recommended by the Selection Committee. As the petitioner was not called for the said interview and as the respondent No.5 was called for the interview and as he was selected, the present petition is filed seeking for the aforesaid reliefs.

4. A counter affidavit is filed by the respondents No.1 to 4 contending, inter alia, that for all purposes and intent, the petitioner did not possess the qualification for making an application as against the post of Head of the Department (Food Production), both in terms of the advertisement and also in terms of the relevant Recruitment Rules of the respondents No.2 to 4. The call letter which was issued to the petitioner earlier was issued through oversight and bona fide mistake which when detected was cancelled and a fresh date for interview was fixed on which date the respondent No.5 was called for interview. It is also stated that the respondent No.5 possessed the requisite qualification in terms of the said advertisement as also in terms of the Recruitment Rules and, Therefore, there is no impediment in appointing the said respondent No.5 as the head of the Department (Food Production), particularly when his name was also recommended by the Selection Committee.

5. A post for Head of the Department (Food Production) was advertised. According to the said advertisement, a candidate either must be a Diploma Holder or a Degree Holder in Hotel Management and must have at least seven years experience as Senior Lecturer in a recognised Institute of Hotel Management or as the Deputy Manager having age in between 40 to 45 years as on 15th April, 2000. The essential qualifications and experience for filling up the said post as indicated in the advertisement are to be in terms of the Recruitment Rules itself as the advertisement refers to the Recruitment Rules.

6. It was contended by the counsel appearing for the petitioner that the respondent No.5 did not possess Graduation Degree with second division, which is a requirement as indicated in the advertisement published in the Newspaper.

The said contention is found to be incorrect for there appears to be a mistake in

the advertisement for, under the provisions of the Recruitment Rules, a person being a graduate with a three year Diploma in Hotel Management having secured at least second division could apply for the post of the head of the Department. It is not necessary under the Rules for a candidate to secure a second division both as a graduate and also as a diploma holder in Hotel Management which are essential qualifications as per advertisement which is against the Recruitment Rules. Since valid Recruitment Rules are available, the essential qualification shall be governed by the said Rules. The contention of the counsel appearing for the petitioner is found to be without any basis.

7. It was also contended by the counsel appearing for the petitioner that the respondent No.5 is only In-charge and not a confirmed Senior Lecturer and, Therefore, he could not have been called for the interview as because the candidature of the petitioner for the same post was also rejected on the same ground.

I have examined the said contention in the light of the records. As per the records made available, it is clear and apparent there from including the statement made by the petitioner himself in the writ petition that the respondent No.5, Shri D.D. Sharma, was promoted as against a temporary lien vacancy as Senior Instructor 4th April, 1983 and that he was confirmed in the said post of Senior Instructor by office order dated 20th March, 1989. Therefore, the respondent No.5 is a confirmed Senior Instructor with effect from 20th March, 1989 and is a graduate and has a diploma in the Hotel Management having secured a second division and, Therefore, He fulfills all the necessary eligibility criterion and qualifications in terms of the aforesaid advertisement and also in terms of the Recruitment Rules. Therefore, no grievance could be made by the petitioner in calling the respondent No.5 to the interview for filling up the post of the Head of the Department (Food Production).

8. On the other hand, so far the petitioner is concerned, there is no document placed on record to show and indicate that the petitioner was confirmed in the post of Senior Instructor. What is placed on record by the petitioner is not even the order appointing him as In-charge of the Bakery Department. However, an office order is placed on record which describes the petitioner as In-charge of the Bakery Department. An In-charge of the Bakery and Confectionery Department continues to be a Lecturer and not a Senior Lecturer which is an essential requirement under the Rules for being considered for appointment in the post of head of the Department. The petitioner all along continued to be a Lecturer/ Instructor and at best, he was given the charge of the Bakery and Confectionery Department but it does not prove and establish that the petitioner was appointed to the said post on the date of the application on regular basis and, Therefore, he cannot claim himself to be a Senior Lecturer. As per the Recruitment Rules the minimum eligibility criteria for the post of Head of the Department is seven years experience as a Senior Lecturer. He, Therefore, did not fulfill the eligibility criteria at the relevant time when call letter was issued and in that view of the matter, no

grievance could be made by the petitioner as against the action of the respondents No. 2 to 4 in cancelling the call letter issued to him. Challenge was also made to the qualifications of Sh. Masood Alam during the course of arguments. He was, however, not made a party in the writ petition and, Therefore, the said plea cannot be entertained. The contesting respondents have however, contended that he was also fully qualified.

9. Counsel appearing for the petitioner also referred to the contents of "Annexure R-3" which is placed on record by the respondents themselves. The said "Annexure R-3" is the Minutes of the Selection Committee for filling up the post of Head of the Department. The said Minutes disclose that seven candidates were called for the interview. Out of the aforesaid seven candidates, called for interview, six candidates appeared for interview before the Selection Committee. Out of the six candidates, three candidates including the respondent No.5 were selected as Head of the Department, two of the candidates were found to be not suitable and the remaining candidate, namely, Shri Achintya Dey was found not to have fulfilled the eligibility criteria. Be that as it may, as discussed earlier, the respondent No.5 fulfills all the essential qualifications and norms for appointment to the post whereas, the petitioner does not fulfill the norms. Therefore, he cannot have any legitimate grievance as raised in this petition.

10. Therefore, there is no merit in this petition and the same stands dismissed. Interim order also stands vacated. Pending application stands disposed of accordingly and the interim order passed on 10th October, 200 stands vacated.