

(2013) 05 GAU CK 0027
In the Gauhati High Court
Case No : WP (C) No. 3367 of 2012

Sri Manabjyoti Saikia

APPELLANT

Vs

Oil India Ltd. and Head, Planning and Central Public
Information Officer

RESPONDENT

Date of Decision : 14-05-2013

Acts Referred:

Citation : (2013) LabIC 3099

Hon'ble Judges : Ujjal Bhuyan, J

Bench : Single Bench

Advocate : C. Baruah, Mr. B. Baruah and Mr. A.H. Laskar, for the Appellant; S.N. Sarma, SC, Oil India Ltd. and Ms. P. Khound, for the Respondent

Final Decision : Dismissed

Judgement

Ujjal Bhuyan, J.—Heard Mr. C. Baruah, learned Senior Counsel for the petitioner and Mr. S.N. Sarma, learned senior counsel for the respondents, Oil India Ltd. By way of this writ petition, petitioner has challenged the procedure adopted by Oil India Ltd. to select candidates under "Land Affected" category for appointment to the post of Unskilled Workmen (Tradesman-I/Attendant-I) Grade-I. Further prayer made is for a direction to the respondents to allow all the candidates belonging to the "Land Affected" category to appear in the interview for the said post without insisting on any written test.

2. Case of the petitioner is that a requisition was made by Oil India Ltd. to the local Employment Exchange, Moranhat, district Sivasagar to sponsor candidates for 10 (ten) vacancies in the post of Unskilled Workmen Grade-I (Tradesman-I/Attendant-I) for 2 (two) categories i.e. "Land Affected" and "Localman", 5 (five) vacancies for each of the categories. The present petition is concerned with the category "Land Affected". According to the petitioner, as per policy adopted by Oil India Ltd. for such post, the vacancies are apportioned for 3 (three) categories:-

- (a) Land Affected,
- (b). Dependant of employees, and
- (c). Local man.

3. As already indicated, the present petition is concerned with the category "Land Affected", which consists of persons whose lands had been acquired to carry out the activities of Oil India Ltd. Earlier recruitments to such category of post was by oral interview only. But in the present case, as per advertisement published in the newspapers on 16.03.2012, it was indicated that there would be a screening (written test) and only those candidates who qualify in the written test would be called for oral interview. It was stated that the final selection would be based in order of merit on the basis of marks obtained in the interview/viva voce. Similar requisitions were sent to other employment exchanges situated within the operational area of Oil India Ltd.

4. Petitioner belongs to "Land Affected" category as land belonging to his family were acquired for laying down of Oil India pipe-line. Petitioner's name was sponsored by the Moranhat Employment Exchange where his name was registered. Altogether 38 candidates were sponsored by the said Exchange under the said category. Written test was held on 25.03.2012 in which he appeared.

5. According to the petitioner, though the qualifying marks fixed for the written test was 50, the same was subsequently lowered to 30 marks. This was done to enable interested candidates of some of the officials to be short listed for the oral interview. Petitioner has contended that nobody could secure 50% marks in the written test and, therefore, the written test ought to have been held afresh or the authority ought to have allowed all the candidates to appear in the interview. He has stated that more than 7 bighas of his father's land were acquired by Oil India Ltd. in the year 1977 for which only a paltry sum was awarded as surface compensation.

6. Aggrieved, petitioner has filed the present writ petition seeking the reliefs as indicated above.

7. Petitioner has contended that since the criteria adopted for selection of candidates under the "Land Affected" category is the quantum of land acquired, the selection should be confined to those candidates whose lands had been acquired with preference to those with higher area of land acquired. Holding of written test by fixing minimum qualifying marks for such a selection is totally uncalled for and unwarranted considering the job requirement and the object of such recruitment. Lowering of qualifying marks from 50% to 30% after the written test was over is also not permissible, which has vitiated the selection.

8. Respondents have filed affidavit. Stand taken in the affidavit is that Oil India Ltd. had decided to recruit 315 numbers of Unskilled Workmen from its operational area. As per the recruitment policy, apportionment of the posts is as under:-

- a. Land Affected persons belonging to operational area of Oil India Ltd.-40%.
- b. Local persons from Oil India Ltd. operational area-35%.
- c. Employees' children-25%.

9. The above apportionment includes vacancies for reserved categories. Reservation of 40% posts for "Land Affected" category is applicable to only those persons whose lands were acquired by Oil India Ltd. prior to 20.06.1990. First priority under the aforesaid category would be given to those in whose case more than 10 bighas of land were acquired. The 40% vacancies belonging to the "Land Affected" category are distributed amongst various employment exchanges which falls within the operational area of Oil India Ltd. Anticipating a large number of applicants, Oil India Ltd. decided to go for screening (written test) to ensure that only deserving candidates are called for oral interview. After the written test was over, various local organizations raised hue and cry for lowering the qualifying marks from 50% to 30%. Accordingly, Oil India Ltd. took a conscious decision to reduce the qualifying marks from 50% to 30% which was accordingly notified. Petitioner attempted 34 questions out of 100 questions and secured only 15.25 marks out of 100. Thus, he failed to qualify in the written test. All the candidates who had secured 30 marks or more in the written test were called for interview.

10. Petitioner has filed reply affidavit reiterating the averments made in the writ petition. It is contended that since more land belonging to the petitioner's family was acquired than the other candidates, he should get preference over others.

11. Mr. C. Baruah, learned senior counsel for the petitioner submits that the very basis for holding the written test was erroneous. The anticipation that there would be large number of candidates stood belied by the fact that under the Moranhat Employment Exchange, only 10 (ten) posts were put up for recruitment, including 5 (five) posts under the "Land Affected" category. As against the said vacancies, the said Employment Exchange had sponsored the names of 38 candidates, including the petitioner. Considering the nature of employment, there was no justification to make a departure from the prevailing mode of recruitment i.e. only through oral interview. Insistence on written examination (screening test) was misplaced as the emphasis should have been on those candidates whose lands had been acquired for activities of Oil India Ltd. in the proportion as per policy. There is no nexus between the nature of employment and holding of written test. He further submits that admittedly Oil India Ltd. erred in lowering the qualifying marks after the written test was over, that too, at the instance of outside bodies. According to Mr. Baruah, learned senior counsel, the same amounts to changing the rules of the game after the game had commenced. Asserting that the petitioner is a deserving candidate whose candidature should be assessed by the only criteria of quantum of land acquired, learned senior counsel for the petitioner seeks interference by the Court in the matter.

12. Per contra, Mr. Sarma, learned senior counsel appearing for the respondents submits that the writ petition is not maintainable in as much as petitioner had participated in the selection without raising any objection. He took a calculated chance and when he found that he was not selected, he has filed the writ petition raising the objection, which is not permissible in law. He further submits that it is for the authority to decide as to the mode of recruitment process to be undertaken and the candidate cannot dictate what method of recruitment should be adopted. Lowering of qualifying marks from 50% to 30% did not cause any prejudice to the petitioner, rather it was to his advantage. Even then, petitioner failed to qualify. The allegation of the petitioner that land of his family were acquired by paying a paltry sum of compensation is not correct. It is contended that the land was acquired in the year 1977 and compensation was paid as per land value prevalent at that point of time. The amount stated to have been received by the petitioner's family was only on account of surface compensation which was in addition to the land value compensation. He, therefore, prays for dismissal of the writ petition.

13. Submissions made have been considered.

14. Short point for consideration is whether the method of selection adopted by the respondents for selection of candidates under the "Land Affected" category for appointment to the post of Unskilled Workmen Grade-I (Tradesman-I/Attendant-I) is arbitrary and unreasonable or suffers from any infirmity.

15. Petitioner has stated that out of the 38 candidates sponsored by the Moranhat Employment Exchange under the "Land Affected" category, he should have been placed at Serial No. 1 as the quantum of land acquired in respect of his family was the highest, being 7 bighas 3 kathas and 2 lechas. Similarly situated candidates with lesser lands acquired have been short-listed for the interview except the petitioner, who was not called for the interview on the ground of failure in the written test.

16. It may be true that on previous occasions recruitment under the aforesaid category was by way of oral interview only. But in the present case, as per the affidavit of the respondents, it is seen that recruitment was made for a total of 315 posts of Unskilled Workmen, out of which 40% are earmarked for the "Land Affected" category. Thus, the number of posts for the said category comes to 126. Considering the fact that the recruitment area extended to the entire operational area of Oil India Ltd. with Moranhat Employment Exchange being only one of the exchanges, the decision to have a written test to short list the eligible candidates for the oral interview cannot be faulted. As per the said affidavit, the names of about 11,000 candidates were sponsored by the different employment exchanges for the posts advertised. It is within the discretion of the employer to choose the nature of recruitment process so as to select the best candidate, provided such a process is not irrational, arbitrary or unreasonable. In the facts and circumstances of the case, the decision to hold written test cannot be termed as irrational, arbitrary or unreasonable.

17. Moreover, the decision to lower the qualifying marks in the written test from 50 to 30 did not cause any prejudice to the petitioner or to any candidate. In fact, it was to the benefit of the vast majority of the candidates. But as pointed out by the respondents in the counter affidavit, even after lowering of the qualifying marks to 30, petitioner failed to secure the minimum marks and thus could not succeed. It does not amount to changing the rules of the game as contended by the petitioner.

18. For all the aforesaid reasons, this Court finds no good ground to grant the reliefs as prayed for by the petitioner.

19. Writ petition is found to be devoid of merit and is accordingly dismissed. No cost.