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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. DA-223/88

Date: 11.6.93

Shri Raj Singh Applicant

Versus

Delhi Administration Respondents

For the Applicant Shri Shyam Babu, Advocate

For the Respondents Smt. Avnish Ahlawat, Advocate

CORAM: Hon'ble Mr. I.K. Rasgotra, Administrative Member
 Hon'ble Mr. J.P. Sharma, Member (Judl.)

1. To be referred to the Reporters or not?

(Judgement of the Bench delivered by Hon'ble
Mr. J.P. Sharma, Member)

The grievance of the applicant is that he was aspiring for the post of Motor Vehicle Inspector advertised by the Directorate of Transport, Delhi Administration, in the pay-scale of Rs. 1600-2600 plus other allowances. The said advertisement published on 28.2.1987, called for applications of those candidates who, on the relevant date, possessed the following qualifications:-

- (i) Matriculation Examination certificate;
- (ii) Diploma certificate in Motor mechanics/ automobile engineering from a recognised institute;
- (iii) Five years' practical experience of testing and repairing automobiles;
- (iv) Five years' driving experience of all types of vehicles with some administrative ability.

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Since the applicant did not have driving experience of all types of vehicles and had only the requisite driving experience of only HMV, he did not apply for the post bona fide considering himself as not fully eligible. It appears that the administration had subsequently called for interview those candidates who did not have the requisite driving experience of all types of vehicles and those who had only driving experience of HMV, were called for the interview. As a result of that selection, the respondents have appointed Shri Des Raj, Shri Parvin Desai, Shri V.A. Vasu, Shri Ayodhya Prasad, Shri M.P. Kaushik, Shri Sant Raj, and Shri Mithilesh Kumar Singh. The applicant had reasons to believe that the candidates aforesaid appointed by the respondents on the basis of the aforesaid advertisement, did not possess the requisite qualifications and as such, their appointment is purely in relaxation of the eligibility conditions advertised by the Directorate of Transport, Delhi Administration, on 28.2.1987.

2. The applicant, therefore, in the amended application, has prayed for the following reliefs:-

- (a) Declare the appointments made in pursuance of advertisement dated 28.2.1987 as null and void;
- (b) direction to the respondents to make appointments strictly according to qualifications advertised in the advertisement notice dated 28.2.1987;

(c) the respondents be directed to readvertise the posts on the basis of relaxation given in the appointments of private respondents and then the process of fresh selection be taken for empanelment.

3. We have heard the learned counsel for ~~both~~ the parties and gone through the records of the case. The only question involved in this case is whether the applicant has a right to challenge the said selection, as admittedly, he did not apply for the post and secondly, whether he was eligible even if the relaxed qualifications are taken into account on the basis of which the private respondents have been selected and appointed by the respondents. It is admitted to the respondents that in the advertisement dated 28.2.1987, five years' driving experience of all types of motor-vehicles was the eligibility condition for applying for the post. In fact, the respondents have considered ~~as~~ five years' experience in driving of all types of vehicles. In fact, the respondents were duty bound to inform by a public notice the requisite intention harboured by them which was not explicit in the language of the advertisement dated 28.2.1987. In fact, the applicant, as he has alleged, did not apply as he possessed only five years' driving experience in HMV.

4. The learned counsel for the applicant has referred to the authorities of Mrs. J.K. Dhesi Vs. Punjab Agriculture University and Others reported in 1976, SLWR, 398. In that case also, the question of relaxation of qualifications

was considered by Punjab and Haryana High Court subsequent to the advertisement and in view of the fact that no fresh advertisement was issued relaxing the qualifications, the appointment of respondent No.4 as Dean of the College of Home Science, was quashed. The High Court of Punjab had considered the case of Shri Kuldip Singh Gill Vs. State of Punjab, 1972, Current Law Report, 375 and Shri Atam Prakash Mohan and Others, Kurukshetra University, 1970 SLR 16. It has been held in the above authorities that the minimum qualifications would not be relaxed when it had not been stated in the advertisement inviting the applications for the post. By relaxing the rules subsequently, all eligible persons who would have aspired for appointment, were deprived of applying for the post.

5. We have considered the above reported authorities and find that in all these cases, the petitioners who challenged the appointments of selected candidates, were eligible on the basis of relaxed qualifications. However, in the present case, we find that even if we consider from the point of view of relaxed qualifications, the applicant did not have five years' experience of testing and repairing of vehicles and this qualification was one of the essential qualifications for eligibility for applying for the post. Though the applicant has filed certain certificates to show that he had the necessary experience, but those certificates, by their own showing as well as contents, do not inspire credibility as genuine documents. For example, the certificate obtained for the period from 28.4.1973 to 10.5.1975 from a private firm of Bhardwaj Diesel Works, Rohtak Road,

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New Delhi, was issued for a period of time when the applicant was less than 18 years of age. His date of birth is 23.4.1957 and he took the Matriculation examination in April, 1973. At the same time, the certificate dated 5.4.1975 (Annexure 'C') shows that he worked for two years from 28.4.1973 to 10.5.1975. At that time, in April, 1973, the applicant was taking the Matriculation examination. The applicant at that time had no experience or technical knowledge, nor had he in the Matriculation any of these science subjects. It cannot, therefore, be accepted that he worked as a Technician in engine overhaul, etc. He was also paid remuneration of Rs.200/- p.m. At the most, as a minor, he can be a Helper. This shows that the certificate is not genuine. Similarly, for another spell from 1.9.1981 to 20.4.1982 and the last certificate from 1.5.1982 to 30.6.1983, did not carry conviction. In the meantime, the applicant has undergone I.T.I. training from August, 1977 to July, 1979. The remuneration he was paid in 1982 remained static at Rs.200/- p.m. The certificate dated April 1975 and that dated June, 1983, are almost in the same words and type. These certificates, therefore, are not acceptable as a reliable evidence to establish that the applicant had five years' experience of repairing and testing of automobiles. The respondents have taken a specific stand that the representation of the applicant was fully considered and he was also given a personal hearing and it was found that he was not even eligible on the basis of the relaxed qualifications. The representation dated 1.10.1987 was, therefore, rejected. ~~the same day.~~

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6. A right has accrued to the private respondents referred to above after selection. Those private respondents were represented through a lawyer, but did not contest the application by filing a reply as the official respondents have been contesting the same. The private respondents, therefore, cannot be ousted from employment because they had applied for the posts on the basis of the advertised qualifications by the notice dated 28.2.1987. Since the applicant did not apply at all, he cannot challenge the same after the private respondents have been given appointment and when he also did not fulfil the eligibility condition of five years' experience in repairing and testing of automobiles.

7. We find no merit in this application. It is, therefore, dismissed as devoid of merit, leaving the parties to bear their own costs.

J.P. Sharma
(J.P. Sharma)
Member (J) 11.6.93

I.K. Rasgotra
(I.K. Rasgotra)
Administrative Member