

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00055/2014
WITH
MISC. APPLICATION NO. 291/00042/2014

ORDER RESERVED ON: 09.02.2015

DATE OF ORDER: 13.2.2015

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MRS. CHAMELI MAJUMDAR, JUDICIAL MEMBER

Batti Lal Gurjar S/o Shri Harshai Gurjar, aged about 28 years, R/o Village Gurjarwada, Post Shaikhpura, Tehsil Sikrai, District Dausa (Rajasthan).

...Applicant

Mr. S.P. Sharma, counsel for applicant.

VERSUS

1. Navodaya Vidyalaya Samiti through its Commissioner, Jaipur Region through Commissioner, A-28, Kailash Colony, New Delhi.
2. Navodaya Vidyalaya Samiti, Jaipur Region through its Deputy Commissioner, 18, Sangram Colony, Mahaveer Marg, C-Scheme, Jaipur.
3. The Principal, Jawahar Navodaya Vidyalaya, Khedli, District Dausa, Rajasthan.

...Respondents

Mr. Hawa Singh, counsel for respondents.

ORDER

(per MRS. CHAMELI MAJUMDAR, JUDICIAL MEMBER)

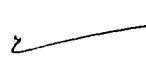
The applicant has filed this Original Application challenging the order dated 30.03.2011 (Annexure A/1) passed by the Deputy Commissioner, Navodaya Vidyalaya

Samiti (for short NVS), Jaipur Region, Jaipur whereby the proposal sent for appointment of the applicant for the post of Electrician-cum-Plumber through direct recruitment was rejected.

2. The facts of the case as stated in the Original Application, inter alia, are as-follows: -

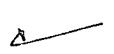
(i). Pursuant to the advertisement dated 01.01.2011 issued by the Sub-Regional Employment Officer, Jaipur inviting applications to fill up the post of Electrician-cum-Plumber in OBC category, the applicant applied for the said post. The applicant participated in the selection process and after being selected by the selection committee, he was placed in the merit list. The applicant was recommended by the said selection committee for appointment to the appropriate authority.

(ii). The grievance of the applicant is that in spite of recommendation by the selection committee for his appointment in the post of Electrician-cum-Plumber, the Deputy Commissioner, NVS, Jaipur Region, Jaipur (Respondent No. 2) passed the impugned order dated 30.03.2011 rejecting the candidature of the applicant.



(iii). The applicant immediately challenged the aforesaid impugned order before the Hon'ble Rajasthan High Court, Jaipur Bench and obtained an interim order dated 25.05.2011. After the respondents raised objection with regard to the jurisdiction of the Hon'ble High Court, the present Original Application was filed after obtaining the leave from the Hon'ble Rajasthan High Court along with the interim protection as granted by the Hon'ble Rajasthan High Court, Jaipur Bench on 20.01.2014.

(iv). The applicant has challenged the impugned order precisely on the ground that once the applicant was selected by the expert body i.e. the selection committee, it was not open to the Deputy Commissioner to reject the claim of the applicant for such selection and appointment. The applicant fulfils the requisite criteria for appointment as mentioned in the advertisement. The advertisement did not speak of any particular authority for the purpose of attaining experience. The applicant submitted his experience certificate from one hotel and from a recognized company like Ashok Leyland and Jawahar Navodaya Vidyalaya (for short, JNV) itself had certified his experience and working as Electrician-cum-Plumber. The applicant has contended that the reasoning given by the respondent no. 2 was wholly unsustainable in the eye of law inasmuch as according to the advertisement, the experience certificates



from private concerns were also permissible. Moreover, the applicant submitted certificates of work experience from JNV itself. The authorities ought to have approved the recommendation of the selection committee and issued appointment letter in his favour.

3. The respondents have filed their reply denying all the contentions of the applicant. The respondents also raised objection with regard to limitation as well as jurisdiction. The respondents have contended, inter alia, as follows: -

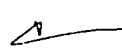
(i). Initially, the requisition for the post in question was sent by JNV to Employment Exchange, Dausa vide letter dated 16.08.2010. The Employment Exchange circulated the vacancy widely after issuance of permission by the Vidyalaya vide letter dated 21.10.2010 to different Districts. Due to non-availability of the candidates as per the qualification prescribed, the vacancy was again advertised in the Rajasthan Rozgar Sandesh dated 01.01.2011.

(ii). Seven candidates were called in the Vidyalaya on 27.02.2011 for verification of their testimonials. The eligible candidates were called for trade test on 27.02.2011. Only one candidate namely Shri Batti Lal Gurjar was declared qualified. The case of the said candidate was put up before the selection committee at Vidyalaya level for

scrutiny and their recommendation. The applicant was recommended for appointment in the post of Electrician-cum-Plumber by the committee at Vidyalaya level. The said recommendation was further examined at Regional Office level by the committee consisting of Deputy Commissioner as Chairman, Assistant Commissioner (Admn) as Member and Section Officer also as Member.

(iii). The committee, inter alia, observed that the experience certificates submitted by the applicant could not be considered as requisite certificates in terms of the order dated 01.08.2005 (Annexure R/5). The subject of the said order dated 01.08.2005 was merit criteria for short listing of candidates. In serial no. (iii) meant for experience, it was mentioned that only relevant experience would be considered as the merit criteria for short listing of candidates for appointment to the various posts of Vidyalayas. In column meant for scoring pattern, it was clearly mentioned that weightage for relevant experience in a Govt. / autonomous organization would be given at the rate of 1 point for each completed year of experience in the same field and relevant for the duties and responsibilities of the post for which being considered.

(iv). Accordingly, the recommendation of the selection committee at Vidyalaya level was rejected and such



rejection order was conveyed to the Principal vide letter dated 31.03.2011. According to the Navodaya Vidyalaya Samiti, Regional Office, Jaipur, the experience certificates were not in order and were not as per the requirements since there was no salary detail in both the experience certificates and what type of work he was doing with the Ashoka Leyland. Above all the experience was not gained from any Government / autonomous organization which is the mandatory pre-requisite condition for giving weightage to the experience certificates.

4. We have heard Shri S.P. Sharma, learned counsel for the applicant and Shri Hawa Singh, learned counsel for the respondents.

5. Learned counsel for the applicant submitted that the applicant's right to be considered accrued on the basis of the advertisement and the advertisement did not mention about the experience from any Government or autonomous organisations, therefore, the cancellation of the recommendation in favour of the applicant was arbitrary and illegal. The respondents could not go beyond the advertisement.

6. Learned counsel for the respondents submitted that the order dated 01.08.2005 (Annexure R/5) contained in the

compendium of circulars Vol. III for Navodaya Vidyalaya Samiti is the existing guidelines on the subject of merit criteria for short listing of candidates and the said order clearly mentions that weightage for relevant experience will be given when the same is gained from the Government / autonomous organization. The applicant's experience certificates are not according to the merit criteria for short listing of candidates for the post of Electrician-cum-Plumber. Learned counsel for the respondents also sought to argue that out of seven candidates, the applicant was only picked up, chosen and recommended for the said post; although there was shortcoming in the applicant's candidature so far as the experience was concerned.

7. We have considered the submissions made on behalf of the respective parties.

8. It is well settled that the advertisement has to be made in accordance with the prevailing executive instructions or according to the statutory rules for recruitment. The appointment pursuant to the said advertisement would be regulated either by the executive instruction or by the statutory rules.

9. The Hon'ble Supreme Court in the case of **Dr. Chetkar Jha vs. Dr. Viswanath Prasad Verma & Ors.** reported in



AIR 1970 SC 1832 held in no uncertain terms that the advertisement cannot be in deviation of the requirements of the statutory rules or executive instructions. Following the same principle, when the appointment in JNV is regulated in terms of the executive instructions as mentioned hereinabove, the advertisement should have been taken out in consonance with the mandatory requirement that a candidate has to possess experience from a Govt. or the autonomous organisation for the purpose of appointment in question. The Hon'ble Supreme Court in the said case also held that it would be proper to go for re-advertisement in conformity with the statutory rules.

10. The Division Bench of the Hon'ble Bombay High Court in the case of **Jayant Jairam Rohee vs. Maharashtra Public Service Commission & Another** reported in 1986 Vol. 2 SLR 159 held that the rules provided for qualification of persons having ordinarily practised in the High Courts or Subordinate Courts for not less than three years as prescribed in the advertisement have to be followed. The Public Service Commission called for interview only such persons who had put in five years practice on the view that they would be more competent. The Hon'ble Bombay High Court found the assumption of the Commission to be baseless.

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11. As such, in the instant case, the advertisement appears to be in deviation of the executive instructions to be followed for the purpose of appointment in the post of Electrician-cum-Plumber. We find in the impugned order, the competent authority not only rejected the recommendation of the selection committee for appointment of the applicant for the post in question but also stated that fresh advertisement and selection process to be held for the purpose of appointment in question. Therefore, we do not find any infirmity or illegality in the impugned order.

12. Accordingly, the present Original Application being devoid of merit is dismissed. However, there will be no order as to costs. The Misc. Application for condonation of delay is disposed of.


(MRS. CHAMELI MAJUMDAR)
JUDICIAL MEMBER


(ANIL KUMAR)
ADMINISTRATIVE MEMBER