

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

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Original Application No. 124/2002

Bilaspur, this the 8th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Abhay Kumar Rajput,
aged 26 years,
s/o Shri R.L. Rajput,
R/o Q.No. 2191, Type-II,
Ordnance Factory Estate,
Itarsi-461 122 (Distt. Hoshangabad(MP)). ...Applicant

(By Advocate: Shri S. Nagu)

-versus-

1. Union of India through
Secretary,
Dept. of Defence Production & Supplies.
South Block,
New Delhi. ...Respondents
2. The General Manager,
Ordnance Factory,
Itarsi. Distt. Hoshangabad (MP). ...Respondents

(By Advocate: Shri S.P. Singh)

O R D E R

By Madan Mohan, Judicial Member -

By filing this original application, the applicant has sought the following main reliefs:

- i) to quash the impugned order dated 8.1.2002 as being void, illegal and arbitrary and opposed to law.
- ii) to direct the respondent no. 2 to issue appointment letter to the applicant on the post of Chargeman Gr. I(Tech/Chem) as has been issued to other candidates which are stipulated lower in merit ranking than the applicant.
- iii) to direct the respondent no. 2 to grant all consequential benefits to the applicant including proper fixation of seniority on the post of Chargeman Gr. II(Tech/Chem) who was placed immediately below to the applicant in the select list and also to grant the benefit of pay fixation arrears of salary etc.

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2. The brief facts of the case are that the respondent no. 2 by an advertisement dated 10.4.1999 invited applications for filling up 19 vacancies for the post of Chargeman Gr. (Tech/Chemical) for which the minimum educational qualification was B.Sc. with physics, chemistry and mathematics with two years experience in the technical field. In pursuance to the said advertisement, the applicant applied and was called for written test and interview but could not be selected. Thereafter another advertisement was issued by the respondent no. 2 which was published in Hindi daily Nav Bharat on 12.11.1999 inviting applications for 17 vacant posts of Chargeman Gr.II (Technical/Chemical) by direct recruitment. Applicant this time also applied for the said post furnishing required documents in respect of educational qualification and experience. After duly verifying the authenticity and veracity of the credentials of the applicant a call letter dated 6.3.2000 was issued inviting the applicant to participate in the written test and interview to be held on 21.3.2000 and 22.3.2000 respectively. The applicant was successful in the written test and also in the interview and his candidature was thus empanelled and to be best of his knowledge and information he was placed considerably high in the select list so as to be issued appointment order. The respondent no. 2 started issuing appointment orders in favour of persons who had participated alongwith the applicant in the aforesaid selection and the applicant was hopeful that on account of having performed very well his appointment order would also soon be issued. But to the utter surprise, the applicant received a show cause notice dated 15.2.2001 asking the applicant to explain as to why his candidature be not cancelled for the reason that the experience certificate submitted ^{pursuant} by him to the earlier advertisement and pursuant to this advertisement differ in as much as the earlier one mentions the applicant to have worked as a Chemist at Agro Pesticides, Itarsi on honorarium whereas when the same certificate was

submitted the term 'honorarium' was missing and further more the applicant pursued his B.Ed course while undergoing experience which fact was suppressed by the applicant and the said period of gaining experience is over-laping with the period of undergoing his B.Ed course. Hence, the applicant does not have two years required experience in the field. The applicant against the said show cause notice filed a detailed reply stating that the period of experience did not overlap as the B.Ed course was pursued from 8.30 p.m. to 12.40 p.m. every day whereas the experience gained at Agro Pesticides, Itarsi was from 1.00 p.m. to 9.00 p.m. But the respondents without considering the reply in a right perspective, cancelled the candidature of the applicant for the post of Chargeman Gr.II (Technical/Chemical) by order dated 8.1.2002 (A/14). Hence, this O.A. has been filed seeking the aforesaid relief.

3. Heard the learned counsel for both the parties.

4. It is argued on behalf of the applicant that the applicant did not suppress any material fact from the respondents and further more the experience gained by the applicant did not overlap as he pursued his B.Ed during the period of gaining his experience from 8.30 a.m. to 12.40 p.m. whereas his duty time at Agro Pesticides, Itarsi from 1.00 p.m. to 9.00 p.m. It is further argued that the experience certificate submitted pursuant to both the advertisements are of the same period and issued by the same firm. Hence, it cannot be said that these experience certificates differ from each other. It is also argued that the respondents have on some technical ground cancelled the candidature of the applicant for the post of Chargeman Gr.II which is illegal, ultra-vires and contrary to rules and regulations and deserves to be quashed and set aside.

5. In reply, the learned counsel for the respondents argued that one Mr. Tiwari had complained about applicant and three others who were selected for the post of Chargeman Gr.II

did not possess the required experience and also not having proper experience certificates. It was alleged that when the applicant was gaining experience he was also pursuing his B.Ed course hence the experience is overlapping with the B.Ed course and that cannot be treated as experience. It is further argued that when it was observed that the experience certificate submitted by the applicant was not proper, a show cause notice was issued to the applicant directing him to show cause as to why his candidature should not be cancelled on the ground that the contents of both the certificates of experience submitted pursuant to the two advertisements issued by the respondents, differ as in the first one it was mentioned that he worked as Chemist on Honorarium basis whereas in the 2nd one the word 'honorarium' was omitted; the name of the Proprietor of the firm differs as in the first one it was written as 'VISHANATH SINHAL' whereas in the 2nd one it was written as 'VISWANATH SINGHAL'. The signatures of the proprietor was also claimed to have differed with each other. It is further argued that he also did not inform the respondents about his B.Ed course and concealed this material fact from the notice of the respondents. When the applicant did not follow the warning clause on the top of the attestation form and gave false information and suppressed the material information from the notice of the respondents, the said act of the applicant disentitle him for the appointment to the post of Chargeman Gr.II. Hence, the respondents have not committed any mistake or irregularity while rejecting the candidature of the applicant.

6. After hearing the learned counsel for both the parties and careful perusal of the material available on record, we find that the arguments raised by the respondents that the experience certificates submitted by the applicant pursuant to two advertisements issued by the respondents differ from each other on many counts, are correct. We have also noticed that the applicant has suppressed the material fact of gaining

his B.Ed qualification from the notice of the respondents. When the experience certificates submitted by the applicant differ from each other in that case none of the experience certificate can be taken into consideration. Moreover the period of experience gained is overlapping with pursuasion of B.Ed course. It is further noticed that the applicant has suppressed the material facts and has given false information regarding the requirement of experience, whereby ignoring the warning clause printed at the top of the attestation form. This act of the applicant itself is good enough to disentitle him for appointment to the post of Chargeman Gr. II. Hence, we do not find any legal infirmity with the action of the respondents.

7. In the facts and circumstances of the case and in the light of the above discussion, we find no merit in the OA and the same deserves to be dismissed which is accordingly dismissed without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

/na/

पृष्ठांकन सं. ओ/न्या.....जलालपुर, दि.....
यतिनिधि अध्येतिनि:-

(1) सचिव, उच्च न्यायालय वर्त एसोसिएटेड, जलालपुर
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल S. Naqvi
(3) प्रत्यक्षी श्री/श्रीमती/कु.....के काउंसल SP Singh
(4) वायपात्र, कोपडा, जलालपुर न्यायालय
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार 19-7-41

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