

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.No.829/2002

Hon'ble Sh. Sarveshwar Jha, Member (A)
Hon'ble Sh. G. Shanthappa, Member (J)

Jabalpur, this the 3rd day of November, 2003

Hemand Sharma ... Applicant

(As per memo. of parties)

(By Advocate: Sh. R.K.Dubey)

vs.

Union of India & Others .. Respondents
(As per memo. of parties)

(By Advocate: Sh. K.N.Pethia)

O R D E R (Oral)

By Sh. Sarveshwar Jha, Member (A):

The applicant has preferred this OA with prayers that the respondents be directed to issue appointment letter/joining letter to the applicant for the post of Chargeman-Gr.II (Chemical) in High Explosive Factory (Kirkee), which has been withheld by the Respondents No.3 and 4.

2. The facts of the matter, briefly, are that the applicant had applied for appointment to the post of Chargeman Gr.II (Chemical) in response to the advertisement published through the Central Employment Exchange, New Delhi dated 3-9 June, 2000. According to the advertisement, the qualifications for the post were: (1) Diploma or equivalent (3 years) from a recognised institution, and 2 years experience in the field, or (2) B.Sc. with Physics, Chemistry and Maths with two years experience in the relevant field. A copy of the advertisement is placed at Annexure A-1.

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3. On the basis of the written examination, to which he was called and in which he appeared, he was selected for interview which was held on 24.9.2000. Thereafter, he was directed to furnish attestation forms about verification of character and antedecents. The applicant has submitted all papers, documents, verification forms, etc. as required by the respondents.

4. Letters of appointment have been sent to the candidates selected, but no letter of appointment has been received by the applicants ^{for} so. He accordingly submitted a representation on 3.3.2001 to Respondent No.3 requesting him to issue the letter of appointment. He followed it up with another representation on 24.3.2001 addressed to the General Manager, High Explosive Factory, Pune (Respondent No.3); but from there also no response has been received. In fact, the applicant has submitted several representations in the matter; but no reply has been received from Respondent No.3. He has also met them personally, and it is on his personal visit that he came to know that he is not being considered for appointment on the ground that his ~~graduation~~ qualification obtained from Bharatiya Shiksha Parishad (BSP), UP in the year 1998 is not being recognised by them as the one from a recognised University.

5. The applicant has endeavoured to prove ~~that~~ that he has a valid qualification from a duly recognised University/Institution; he has given an account of the details of the Institution.

According to the letter which he has received from the Institution, dated 31.5.2001, BSP is a

registered educational institution, conducting various courses in different streams under the New National Education Policy, 1986 and the courses and certificates run and issued by this Institution are valid and recognised and are having parity with the courses of the State and Central Government institutions. He has also referred to the fact that the University Grants Commission (UGC) has directed all concerned not to treat the said BSP as a fake University. In this connection, copies of the relevant papers dated 3.3.2001 and 31.5.2001 furnished by the Parishad to the applicant and Respondent No.3 are placed at Annexure A-9 and A-10. He has submitted that in the list of fake Universities circulated by the UGC, BSP is not included (Annexure A-11).

6. The respondents, however, in their reply have admitted that the applicant was called for written test, interview and subsequently police verification was done in connection with appointment to the post of Charge-man Gr.II(Chemical)', but it was discovered later that the University from where the applicant had passed his B.Sc (Chemistry) was not a recognised University under the University Grants Commission. They have, therefore, maintained that the applicant has no case, as he does not possess the qualification as provided for in the advertisement for the post.

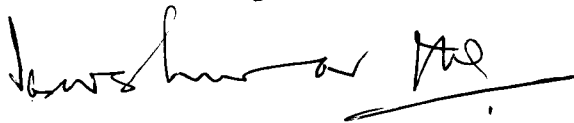
7. However, it is observed that the respondents have made efforts to verify the status of the

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Spoken with Hon.ble A.M.
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Institution not from the UGC directly, but from the University of Pune, which does not appear to be a valid method to pursue the matter. University of Pune is not expected to function on behalf of the University Grants Commission nor on behalf of the Association of Indian Universities. It is, therefore, highly doubtful if information furnished by the said University in respect of BSP would at all be authentic and whether on the basis of their confirmation appointment can be denied to the applicant who has otherwise been found successful in the written as well as oral test. On the question of experience furnished by the applicant vide Annexure A-8 also, the respondents have their own reservations ^{and} they are of the view that the firm in which the applicant claims to have worked is essentially a Chemist Shop or Medical Store; they are not manufacturers of chemicals nor processors of chemical process. They have also commented on the applicant receiving a measely salary of Rs.1000/- per month from the said firm as being less than even the minimum wages as fixed under the Minimum Wages Act at the said time. It is observed that the respondents have drawn inference instead of directly ascertaining the facts of the matter from the firm themselves.

8. The respondents have not cared to find out the truth of the matter on qualification or experience from the institution

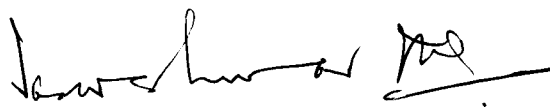


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concerned and have, instead, made conjectures on the basis of papers received through the University of Pune. It is further observed that the matter relating to the courses/degrees run/awarded by the BSP, UP having proper recognition is pending before the Hon'ble Supreme Court vide Transfer Petitions (Civil) Nos.711-716 of 2002 and this fact has been mentioned by the University Grants Commission in their letter dated 28.9.1999 (Annexure A19). Their letters at Annexure A20 as well as Annexure A21 are also relevant. This aspect of the matter also seems to have been made available through the UGC website (Annexure A16). The information which has been received by the respondents through the University of Pune showing a letter of the Association of Indian Universities is dated 23.4.2001 (Annexure A18) in which, among other things, the following has been mentioned:

"As the name of Bhartiya Shiksha Parishad has been deleted from the list of Fake Universities by UGC our letter of even number dated 13 March, 2001 sent to Ms. Sushmeta Chakraborty, Principal, Kerala Samajam Model School, Sakehi, Jamshedpur 831 001 may be treated as withdrawn."

The letter of the AIU at the end says that 'since the name of Bhartiya Shiksha Parishad, UP is not covered under any of the categories mentioned in paragraph 3 above its programmes are, therefore, not recognised by AIU'. However, the fact remains that the matter has been heard

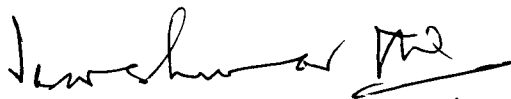


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by the Hon'ble Supreme Court on 22.11.2002 (Annexure A22). Subsequent developments are not available on the record. Possibly the matter is still not decided.

9. However, from the detailed letter which the BSP has written to the Editors/Journalists/leading newspapers and Electronic media representatives on 10th August, 2002 (Annexure A31). It is observed that the matter had been agitated before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench vide different Writ Petitions in which notices had been served on the concerned respondents with interim relief granted to the Parishad to carry out their activities and the training programme. There is also a reference to the directions of the Hon'ble other Courts in the matter whereby the concerned persons/authorities have been directed not to use the word 'fake' against the name of BSP. They have also referred to the fact that students having passed from the BSP have been allowed the benefit of their degrees being duly recognised under the orders of the Hon'ble Courts, while dismissing the petitions filed by the AICTE or UGC, etc.

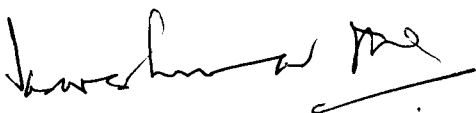
10. The applicant has filed rejoinder to the counter reply of the respondents and in which reference has been made to the fact that the Universities should recognise the examinations



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of one University by another on a reciprocal basis, provided that the entrance qualification, duration of course and the general standard of attainment are similar to those prescribed by the recognised university. This decision is reported to have been taken in the meeting of AIU held in December, 1993. The fact that the education department of Maharashtra Government, Bharathidasan University, Palkalaiperur, Tiruchirappalli (Tamilnadu) and S.N.D.T. Women's University have also found the Degrees and Diplomas issued by the BSP as equivalent to the Degrees and Diplomas issued by these institutions has also been noted. R.

11. During the course of oral submissions, the learned counsel for respondents could not throw much light on why the respondents have not been able to ascertain the facts of the matter for themselves from the UGC or AIU and why, pending decision of the Hon'ble Supreme Court in the matter, they could not consider the letter of appointment being issued to the applicant subject to the outcome of the case in the Hon'ble Supreme Court. It has also not been commented upon by the learned counsel as to whether the fact that some of the institutions have already found the certificates and degrees awarded by the Parishad as equivalent to their degrees. After having found the applicant suitable on the basis of the written as well as oral test and after having conveyed the same to him,

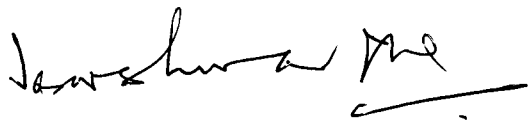


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to hold back appointment simply on the basis of the reported status of the BSP as being a fake institution is not the correct thing to do. . In any case, they should have also scrutinised the details of the particulars furnished by the applicant in the relevant forms submitted by him before he was put to written or oral tests. Having allowed him to write the test and also to appear in the interview it was not appropriate for the respondents to have scrutinised the correctness of the applications furnished by the applicant, which they have not done and in the process they have issued letters of appointment to a number of candidates, while withholding the same in the case of the applicant for no plausible reasons duly conveyed to the applicant, more so when the matter was pending before the Hon'ble Supreme Court.

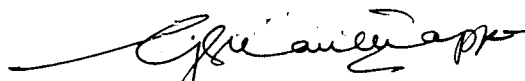
12. Under the above circumstances, keeping in view the facts and background of the case and after hearing the learned counsel on both sides, we are, therefore, of the considered opinion that the respondents could have proceeded in the matter of offering appointment to the applicant subject to the outcome of the case pending before the Hon'ble Supreme Court. In the event, the BSP losing their case, the applicant could have been divested of the post, if appointed.


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13. We, therefore, dispose of this OA with directions to the respondents to offer the post of Chargeman Gr.II to the applicant if he has been found successful in the written/oral test conducted for the purpose and is otherwise found suitable for appointment to the said post as per the advertisement as referred to hereinabove, subject to the outcome of the Transfer Petition (Civil) Nos.711-716/2002. The respondents are further directed to dispose of the matter by issuing a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order.

14. With this, the OA stands allowed, with no order as to costs.


(G. SHANTHAPPA)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

/rao/

पृष्ठान्कन से ओ/लगा..... जयपुर, दि.....
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- (2) सचिव, जयपुर, जयपुर, जयपुर
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सूचना एवं आदेशों के माध्यम से


उप-सचिव
18.11.03

R K Dubey, A-1
KN Pethia, A-1

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18.11.03