

(2020) 09 PAT CK 0238

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 7750 Of 2020

Sanjay Kumar

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: Sept. 18, 2020**Hon'ble Judges:** Chakradhari Sharan Singh, J**Bench:** Single Bench**Advocate:** Rajiv Krishna Bariar, Lalit Kishore**Final Decision:** Dismissed

Judgement

1. The petitioner has filed the present application online after having been granted permission on the ground of urgency shown in the matter, during the COVID-19 Pandemic and has been taken up for hearing through virtual Court proceeding. The petitioner is seeking issuance of a writ in the nature of certiorari for quashing Memo No. 2099 dated 26.08.2019, whereby, by a reasoned order, his candidature for selection against the post of Motor Vehicle Inspector in pursuance of the Advertisement No. 2607 dated 01.08.2007 has been cancelled. The impugned order has been passed in compliance of an order of this Court dated 03.08.2017 passed in CWJC No. 23070 of 2011.
2. There is no averment in the writ application as to what stopped the petitioner to wait to challenge the said communication dated 26.08.2019 immediately after its issuance.
3. However, the question involves in the present writ application is plain and simple and the facts which are the basis for seeking the relief as noted

above, fall for narrow compass. Apart from minimum eligibility of educational and technical qualification, the advertisement required that a candidate for the post must have the work experience of repair, overhauling and inspection in a Work Shop registered under the Factories Act, 1948 (hereinafter referred to as "the Act") engaged in the business of repair of light and heavy motor vehicles etc. The only question which warrants determination in the present application is as to whether the petitioner has been able to make out a case that the Work Shop in which the petitioner claims to have worked in support of work experience was registered under the Act, during the period when the petitioner claims to have acquired the desired experience.

4. The petitioner has relied on a certificate issued by Sarvodaya Engineering Works and Auto Servicing, Biharsharif, Nalanda dated 05.09.2003, which has been brought on record by way of an annexure to the writ application to show that he had worked in the Work Shop as Work Shop Supervisor from July, 2001 to July, 2003. The dispute is thus, confined to the point as to whether the petitioner is able to demonstrate and establish that the said Work Shop, viz, Sarvodaya Engineering Works and Auto Servicing was registered under the Factories Act for the period July, 2001 to August, 2003, or not. The petitioner has relied on a licence issued by the Government of Bihar on 30.05.1998 which shows that the registration number of the Work Shop 39794/NLD had been renewed for the calendar year 1998. Two other copies of the licences have been brought on record, which show that the registration was renewed for the calendar years 2004 and 2005. There is no convincing material at all to show that the registration of the work shop in question was subsisting or renewed for the calendar year 2001, 2002 and 2003.

5. It may be noted at this stage that the petitioner had earlier approached this Court by filing writ application, which had given rise to CWJC No.23070 of 2011 seeking quashing of an order of cancellation of his candidature for the same reason that the workshop in question was not registered under the Act during period when the petitioner claimed to have gained experience. The said writ application was disposed of with the following order on

03.08.2017:-

â€œHeard learned counsel for the petitioner and learned counsel for the respondent-Commission.

2. The present writ petition has been filed for quashing the impugned order of cancellation of candidature of the petitioner against Advertisement No.

2607 for the post of Motor Vehicle Inspector, issued by the Secretary, Bihar Staff Selection Commission, Veterinary College, Patna-14.

3. The interlocutor application has been filed with a prayer for disposal of the present writ petition in terms of the order dated 03.01.2012 passed in

CWJC No. 19381 of 2011 and the order dated 10.01.2013 passed in CWJC No. 400 of 2013.

4. Having regard to the nature of the prayer, the interlocutory application is allowed to be treated as part of the writ petition.

5. Learned counsel for the petitioner prays for disposal of the writ petition with the same directions as contained in the order dated 10.01.2013 passed

in CWJC No. 400 of 2013 in the following terms:-

â€œThat being so, this Court, instead of keeping The matter pending, would deem it expedient in the ends of justice to direct the Secretary, Bihar Staff

Selection Commission, Patna to give an opportunity of hearing to the petitioner and if the petitioner satisfies the Secretary to the Commission that he

had fulfilled the terms and conditions of the advertisement, he may pass any suitable order with the prior approval of the Chairman of the

Commission.â€

6. Learned counsel for the respondent-Commission appears and has been heard.

7. Having regard to the submission advanced on behalf of the petitioner, the writ petition is disposed of in line with and on the same terms as the order

dated 10.01.2013 passed in CWJC NO. 400 of 2013 (Ajay Kumar Vs. the State of Bihar and others.).â€

6. It is pursuant to aforesaid order of this Court that the impugned order dated 26.08.2019 (Annexure-1) has been passed on the ground that the

petitioner failed to produce any evidence in support of the fact that the work shop in question was registered under the Act.

7. Mr. Purushottam Kumar Jha, learned counsel appearing on behalf of the petitioner has, with his usual vehemence, contended that one Dilip Kumar

had also submitted his experience certificate issued by the same work shop. The certificate of said Dilip Kumar has been accepted as valid for the purpose of fulfilling the qualification prescribed in the advertisement. A copy of the certificate, which was submitted by said Dilip Kumar has been brought on record by way of Annexure-7 to the writ application. With reference to the said certificate and on the plea that the said certificate of the same organization, has been accepted as valid. Mr. Jha has submitted that, the petitioner's certificate of his work experience should also be accepted as valid.

8. I have carefully perused the certificate of said Dilip Kumar which is of 04.07.2006. He is said to have acquired experience from November, 2002 to December, 2005. It has already been noted above, on the basis of the documents relied on by the petitioner himself, that registration of the work shop was renewed for the calendar years 2004 and 2005. Evidently, the period when the petitioner claims to have acquired experience from the work shop, the registration of the work shop was not renewed whereas in case of Dilip Kumar, his work experience relates to a period when the registration of the work shop in question, was renewed.

9. In such view of the matter, I do not find any illegality in the impugned order.

10. For the reasons noted above, the petitioner cannot claim parity with said Dilip Kumar.

11. I do not find any merit in which application, which is, accordingly, dismissed.