

(2012) 07 P&H CK 0246

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 20548 of 2010

Reena Kaushik

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision: July 17, 2012

Hon'ble Judges: Augustine George Masih, J

Bench: Single Bench

Advocate: R.K. Sharma, for the Appellant; Harish Rathee, D.A.G., Haryana and Ms. Alka Chatrath, Advocate, for the Respondent

Final Decision: Dismissed

Judgement

Augustine George Masih, J.

Challenge in this writ petition has been posed to the selection and appointment of respondent No. 6-Ms. Neeru Rani as Hair and Skin Care Instructor in Industrial Training Institute (W) Bitna, Kalka. An advertisement was issued by the official respondents for filling up a post of Hair and Skin Instructor in Dainik Bhaskar dated 07.09.2010. Last date for receipt of applications was 10.09.2010 (4 P.M.). Six applications were received. Since all the candidates fulfilled the requisite qualifications, they were informed that the interview would be held on 14.09.2010. Out of these six candidates, five appeared for interview while one was absent. After the interview result was declared and respondent No. 6 was selected on the post of Hair and Skin Care Instructor. Petitioner sought information of comparative merit of the candidates under the Right to Information Act and the criteria for selection fixed by respondents No. 3 to 5 along with the minutes of the meeting held on 14.09.2010 wherein the selection was finalized. On receipt of the information, petitioner has approached this Court challenging the appointment of respondent No. 6 on the ground that the respondents have not followed the criteria for selection and there is over-writing and tempering with the marks granted to the candidates. It is also alleged that the experience certificates of all the other four candidates have been rejected by declaring them to be false, which was with an intention to select

respondent No. 6 on the behest and mala-fides of respondent No. 5, who is Principal of the Industrial Training Institute and had selected respondent No. 6 as she is sister of one of the employees working in the institute. Another ground, which has been taken for challenging the selection of respondent No. 6, is that she does not fulfil the requisite experience and, therefore, her selection and appointment deserves to be quashed.

2. Counsel for the petitioner, while referring to the comparative merit, which was prepared by the Selection Committee (Annexure P-2), contends that the petitioner was more meritorious candidate and had obtained more marks than respondent No. 6 but she has not been selected on the ground that her experience certificate was rejected. His further contention is that respondent No. 6 has only four years, 3 months and 26 days" experience in all excluding the period of training which has also been included by the respondents to make it more than the minimum requisite experience as per the advertisement. He has referred to the experience certificates appended with the writ petition as Annexures to P-5 to P-10 in support of this contention. He contends that the experience, which respondent No. 6 had gained during her training when she did her National Trade Certificate and Teachers Training Certificate Course, cannot be counted as the same is not provided for in the advertisement. Counting of the said period by the respondents for making respondent No. 6 eligible for selection cannot sustain and, therefore, the selection of respondent No. 6 deserves to be quashed.

3. On the other hand, counsel for the respondent-State submits that as per the advertisement, the requisite qualification was Matric, National Trade Certificate and one year Teachers Training Certificate and five years experience, which respondent No. 6 fulfills. Reliance has been placed upon the qualifications and experience, as prescribed under the Rules, according to which, teaching and experience would include the period of training and, therefore, the same has rightly been counted in the case of respondent No. 6 and thus, the selection of respondent No. 6 is in accordance with the statutory Rules. His further contention is that the experience certificates submitted by the other four candidates were false and fake and not issued by the recognized/reputed Industrial Organizations/Institutions as a communication sent by respondent No. 5 to the institutions, from where the experience certificates were alleged to have been taken by the candidates, was not confirmed as no communication in response was received from the institutions. As regards the experience certificates of respondent No. 6 was concerned, they were duly authenticated by the institutions from where she had received training and where she had worked thus, the experience certificates of respondent No. 6 were genuine resulting in selection and appointment of respondent No. 6. Accordingly, prayer has been made for dismissal of the writ petition.

4. Counsel for respondent No. 6 has also asserted and forwarded the same arguments as by counsel for respondents No. 1 to 5.

5. On hearing the counsel for the parties and going through the records of the case, I am of the considered view that the claim of the petitioner is without any basis and deserves to be rejected.

6. As far as the experience certificates submitted by the petitioner is concerned, there is a specific reason assigned by the respondents with regard to the same being not authentic which fact could not be disputed by the counsel for the petitioner as he has failed to assert and project that the experience certificates, which the petitioner has obtained, are from the institutes as required under the advertisement. No communication or certificate has been placed on record from the institutes from where the petitioner is alleged to have gained experience to controvert the stand of the respondents. No replication has been filed by the petitioner. However, it has been pressed by the counsel for the petitioner that respondent No. 6 does not fulfil the requisite experience. This contention of the counsel for the petitioner cannot be accepted in the light of the statutory Rules which specify the qualification and experience requisite for appointment to the post, the same reads as follows:

Sr. No.	Designation of the posts	Academic qualification and experience
1.	Junior Mistress (Cutting and Tailoring/Embroidery and Needle work/Dress Making/Knitting with Hand Machine and Hair and Skin Care).	1. National Trade Certificate in the concerned trade.
		2. National Instructor Course Certificate/Teacher Training Certification in the concerned trade.

3. Five Year Practical/teaching experience including the period of foresaid i & ii) from any reputed Industrial Organization of institution.
4. Knowledge of Hindi up to Matric standard.

7. In the light of the above, the period, during which respondent No. 6 had successfully undergone training in the National Trade Certificate i.e. from August, 2002 to July, 2003 and Teachers Training Course in the trade of Hair and Skin Care from October, 2004 to October, 2005, has to be counted as experience. Respondent No. 6 had, after completing her National Trade Certificate, worked on the post of Hair and Skin Care Teacher in the Village Baghwal from 01.08.2003 to 30.09.2004 with Women Development Circle (Yuvti Vikas Mandal). After completing her Teachers Training Course, she joined Kalpana Chawla, Government Polytechnic for Women, Ambala City as Hair and Skin Teacher in Village Kakkar Majra and worked there from 21.02.2006 to 20.07.2006 and 14.11.2006 to 13.04.2007. Thereafter she again joined as Hair and Skin Teacher in Women Development Circle (Yuvti Vikas Mandal) at Village Dhanana and worked from 01.04.2007 to 26.02.2008. She had also worked from 01.03.2009 to 28.02.2010 as Hair and Skin Teacher in Women Development Circle (Yuvti Vikas Mandal) in Village Kakkar Majra. Therefore, it cannot be said that respondent No. 6 does not fulfil the requisite experience for selection and appointment to the post of Hair and Skin Care Instructor. In the light of the above, there being no merit in the present writ petition, the same stands dismissed.