

(2014) 07 SHI CK 0146
High Court of Himachal Pradesh
Case No: CWP No. 8574/2013

Balbir Gautam

APPELLANT

Vs

Oriental Insurance
Company Ltd.

RESPONDENT

Date of Decision: July 2, 2014

Hon'ble Judges: Mansoor Ahmad Mir, C.J; Tarlok Singh Chauhan, J

Bench: Division Bench

Advocate: Ajay Mohan Goel, Advocate for the Appellant; Ashwani K. Sharma, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Mansoor Ahmad Mir, C.J.

The petitioner is in fourth round of litigation before this Court and is fighting his case for a considerable long time, following due process of law.

2. It appears that the petitioner was selected and appointed as Trainee Marketing Agent and was expected to be offered appointment as Development Officer, in terms of clause 12 contained in Annexure P4 which reads as under:

On satisfactorily undergoing full training as envisaged in para 2 above, you will be awarded certificate of proficiency testifying to your competence as a General Insurance Agent. Normal Agency Commission for such business promptly canvassed and introduced by you may be applicable thereafter, and you shall be governed by the provisions of the Agency Code in force from time to time. Company, however, may consider offering you appointment as Development Officer on probation in due course of time subject to your passing the Licentiate/Dev. Officers" Examination.

3. The writ petitioner had undergone training and thereafter made representation to the respondents for his appointment as Development Officer which was not acceded to by the respondents, constraining him to file writ petition before this Court being CWP No. 203 of 2009. The writ petition was disposed of on 5.3.2010, by

the Division Bench of this Court by directing the respondents to consider the case of the petitioner within three months from the date of production of a copy of that judgment by the petitioner.

4. In pursuance to the aforesaid judgment the petitioner made representation to the respondents which was considered by the respondents and rejected constraining the petitioner to file another writ petition being CWP No. 6659 of 2010 which was disposed of by this Court on 29.11.2010 with direction to the respondents to consider the case of the petitioner afresh.

5. Apparently, the record does reveal that the petitioner filed Review Petition being Review Petition No. 77 of 2011, against the judgment dated 29.11.2010, passed in CWP No. 6659 of 2010 which was disposed of vide judgment dated 22.5.2013, by this Court, directing the petitioner to make representation to the Regional Manager, as provided in order dated 29th November, 2010, passed in CWP No. 6659 of 2010, supra.

6. In pursuance to the order aforementioned, the writ petitioner made representation Annexure P23 dated 27.6.2013, to the respondents. The respondents examined the case of the petitioner afresh and made order in terms of annexure P24 dated 29.8.2013 which is subject matter of the present writ petition. It is apt to reproduce order dated 29.8.2013 herein.

REGISTERED.

Deptt.: PERSONNEL.

Date: 29.8.2013.

Shri Balbir Gautam, S/o late Sh. Bansi Lal, R/o VPO Kumarsain, Distt. Shimla, (H.P).

RE: Representation dated 27/06/2013 in pursuance to the Order dated 22.5.2013 passed by the Hon'ble High Court of Himachal Pradesh in Review Petition No. 77 of 2011 in CWP No. 6659 of 2010 titled as Balbir Gautam Vs. OIC & Others.

Dear Sir,

Reference above we would like to inform you that the matter was considered as per the court orders dated 22/5/2013 and it has been found that in the selection process which was conducted by GIC in pursuance to Circular dated 26/-8/1991, you did not possess requisite prescribed experience as Marketing Agent. Moreover, you had not submitted your application form, duly verified and certified as regards your experience, to the GIC for your selection as Development officer. So you were not considered for appointment as Development Officer in the Company.

Now the Development Officer's cadre being run-off cadre, no new appointments are being given in this cadre. As such your request for appointment as Development Officer cannot be acceded to at this stage. This is for your information please.

Thanking you,

Yours faithfully,

REGIONAL MANAGER.

7. While going through the rejection order which is impugned in this petition, one comes to an inescapable conclusion that the writ petitioner has failed to possess the requisite prescribed experience as Marketing Agent which is sine qua non for considering his case for appointment as Development Officer.

8. The learned counsel for the petitioner was not able to show or marshal out that the petitioner was having requisite prescribed experience as Marketing Agent at that relevant point of time.

9. We have also gone through the reply filed by the respondent, which do disclose that the petitioner cannot be granted appointment as Development Officer.

10. Having said so, the impugned order has rightly been made by the respondents, needs no interference.

11. As a corollary, the writ petition is dismissed along with pending applications, if any.