

(2011) 02 AHC CK 0401

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 10825 of 2011

Naresh Kumar Solanki and
Another

APPELLANT

Vs

I.O.C. Ltd. and Others

RESPONDENT

Date of Decision: Feb. 24, 2011

Citation: (2011) 3 ADJ 359

Hon'ble Judges: F.I. Rebello, C.J; Vineet Saran, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. Heard learned Counsel for the parties.
2. The Petitioners had applied for dealers for a Kisan Sewa Kendra. Respondent No. 4 was also one of the Applicants. The Petitioners had earlier moved this Court by way of a petition, being Writ Petition No. 69955 of 2010. The learned Bench of this Court by order dated 15.12.2010 disposed of the same with a direction that if the complaint of the Petitioners had not been finally disposed of, then to take final decision and then all concerned will be at liberty to proceed further in accordance with law.
3. Respondent No. 3 thereafter considered the complaint as filed by the Petitioners and had rejected the complaint on the ground that there is no substance. Xerox copy of the minutes of the Committee, which took the decision, has been placed on record.
4. By the present petition, what the Petitioners contend is that considering marks allotted to them, it is submitted that though they have experience certificates, they have been awarded zero mark whereas for similar experience certificate, the Respondent No. 4 has been awarded full four marks. It is the submission of the Petitioners that no reason has been given by the Committee as to why, though the Petitioners had experience certificates, they have been given no marks.

5. A policy has been placed before us. Insofar as the caption of "Experience" is concerned, the same is mentioned as below:

Parameter	Sub-heads	Description	Max Marks	Evaluation
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Experience (Max. 4 marks for individual and non-individuals	Business experience	(i) For Individual		Based on furnishing of documentary evidence to establish relevant experience. Full marks for experience of 1 year and proportionately for experience of less than 1 year.
		Retail trade of Petroleum products	4	
		Experience in dealing with farm inputs like seeds/fertiliser/ pesticides and sale of agri products	3	
		Hospitality/Service industry/FMCG	2	
		Others	1	
		(ii) For non-individual		In case of individual, experience of
		-Petroleum	4	
		-Experience in dealing with farm inputs like seeds/fertiliser/ pesticides and sale of agri products	3	
		-Hospitality / Service industry/FMCG	2	
		-Any sector other than mentioned above	1	
				Retail trade of petroleum products will include experience of having worked as Manager in a Retail Outlet or as COCO Contractor.

6. The question before us is as to whether the matter should be referred back for consideration or considering the policy, which is placed before us, should we exercise our writ jurisdiction. We find that earlier this Petitioner had come to this Court and the matter was sent back. Considering above, in our opinion, as the matter does not pertain to any disputed questions of facts, based on the facts on records, this petition can be disposed of.

7. In terms of the certificate produced by the Petitioner No. 1, he was working as a "salesman" and the Petitioner No. 2 was working as a "pump operator" at a Filling Station. The marks for experience are set out therein. The Petitioners as also Respondent No. 4 claim under the heading "Retail Trade of Petroleum Products". The Respondent No. 4 produced a certificate that he was a "Manager" in a Retail Outlet. All three of them would not normally have experience of Retail trade of Petroleum products as all of them are employees at a Filling Station.

8. However, by the inclusive definition, the Manager of a Retail Outlet would be included under the caption "Retail Trade of Petroleum Products". Thus, though the Manager otherwise would not be included, but by the inclusive definition, he has been so included whereas the category of employees, such as "salesman" and "pump operator" have not been included.

9. Once that be the case, we find no reason to interfere with the finding, namely, not allotting the marks for the experience to the Petitioners herein. That being the case, the Respondent No. 3 was right in awarding the Respondent No. 4 full four marks and no marks to the Petitioners herein and consequently allotting the Outlet to the Respondent No. 4.

10. For the reasons stated above, we find no merit in the petition and it is dismissed accordingly.