

(2010) 03 MAD CK 0249

Madras High Court

Case No: W.A. No. 223 of 2010 and M.P. No. 1 of 2010

The Senior Area
Manager and The
General Manager, LPG
Indane, Indian Oil
Corporation Ltd.

APPELLANT

Vs

M. Natesan

RESPONDENT

Date of Decision: March 3, 2010

Hon'ble Judges: H.L. Gokhale, C.J; V. Dhanapalan, J

Bench: Division Bench

Advocate: Abdul Saleem, for the Appellant; T. Sellapandian, for Edwin Jayakumar, for the Respondent

Final Decision: Dismissed

Judgement

H.L. Gokhale, C.J.

Heard Mr. Abdul Saleem, Learned Counsel in support of this appeal. Mr. T. Sellapandian, Learned Counsel appears for the Respondent.

2. The Appellants herein are the officers of the Indian Oil Corporation. They are aggrieved by the order passed by a learned Single Judge on Review Application No. 150 of 2009, dated 23rd December 2009, whereby the learned Single Judge has reviewed the order, dated 02nd November 2009 passed by him on the petition filed by the Respondent being W.P. No. 16426 of 2009.

3. The Respondent was an Applicant for the LPG Distributorship at Kulasekaram in Kan-yakumari District. The Appellants had given the advertisement sometimes in February 2008 and thereafter the selection procedure started. The distributorship was reserved for Scheduled Caste/Scheduled Tribe candidates. There were a good number of candidates and there was a system of selection, in which, marks were to be allotted on the basis of educational qualification, age, experience, business ability/ achievement and

personality and thereafter, total marks were to be arrived at out of 30. After the initial marking was done, the field verification was to be done and thereafter the decision was to be taken.

4. In the initial marking, the Respondent got in all 25.78 marks, out of which he got 3.53 marks for business ability and 1.78 marks for experience. There are other candidates who are situated in the list after him, i.e.. one V. Santhi, who got 24.56 marks and then one V.P. Mohana Jeya Valli, who got 23.4 marks. The system is that after these marks are allotted, the field verification is done, the documents are checked and in the event a candidate is found not eligible or his marks in any manner go down in the field verification, the Corporation will go to the second candidate and if the second candidate fails, it will go to the third candidate. A list of these marks was published and the Respondent was expecting his allotment. Inasmuch as the same was not being done, he filed the writ petition seeking a writ of mandamus that the Respondent should allot the LPG distributorship to him.

5. When the petition was heard, it was pointed out on behalf of the Appellants that the Respondent had not stated correct facts in the application. In the application, he had stated that he was having 15 years lease for godown, but no such lease deed was available for verification. Further, the particulars given by him about the experience were not justified. These submissions were accepted by the learned Single Judge and he dismissed the petition by his order dated 02nd November 2009.

6. The Respondent applied for review. He pointed out that as far as these particulars regarding the property are concerned, they are not required for SC/ST candidates and the submissions with respect to experience were also erroneously examined. The learned Single Judge accepted these submissions and, therefore, reviewed the earlier order passed by him and consequently directed the Appellants to consider the claim of the Respondent for award of LPG Distributorship. Being aggrieved by that order, this appeal has been filed.

7. Mr. Abdul Saleem, Learned Counsel for the Appellants points out that the Respondent has to make an honest declaration. In the instant case, his declaration with respect to the go-down was found to be not a correct declaration. That apart, the marks given for experience were on the footing that he had the particular experience that he claimed. But at the time of field investigation, when he was asked to produce the supporting documents, all that he produced was some xerox copies along with his letter dated 25th June 2009. He stated that apart from the xerox copies, no other documents were available nor did he produce any of them.

8. Now what is to be seen is that as far as the experience column is concerned, in the application the question is, "Do you have experience of running or working in any of the establishment dealing in the following for minimum one year? Please give full details chronologically." The type of experience required is Direct Sale/ Home Delivered products

(including LPG distributorship). In that column, in the space provided for giving the Name and Address of the Establishment/Institution etc, the Respondent wrote that he was running Computer Sales/Services, BSNL, AIRTEL, AIRCEL and RELIANCE Pre-paid and Post-paid - Retailers. At the time of field investigation, he produced photocopies of some certificates issued by one Shree Sathya Interiors, K.N. Communications, Amman Agency, Golden Lines and AIRCEL Sri Ma-halakshmi Agencies etc. It was submitted on his behalf by Mr. T. Sellapandian that he was running a computer shop and providing these services and it was run in the name and style of "Global Enterprises" and "Usha Enterprises".

9. If surely he was running any business, the name and address of the Establishment ought to have been mentioned in the application, as required in Column 12 thereof. It is for the Applicant to establish his credentials. The Respondent took the credentials on the basis of the statement made in the application. In the application, no name or address of any establishment has been given as against Column 12. Subsequently, some documents are sought to be tendered. The Appellants are not supposed to be running any investigating agency. The Applicant has to place his credentials, if he is interested, and if the application is incomplete, insufficient, not justified or documents are not produced in support thereof, the Appellants cannot grant any marks on that score.

10. Mr. Abdul Saleem, Learned Counsel appearing for the Appellants states that in view thereof, 1.78 marks granted by the Selection Committee towards experience will get deleted after the field verification, in which case, the Respondent's marks will become less than that of V. Shanthi, whose papers will have to be examined. There were in all 46 Applicants. It is not a case that there were no Applicants. There are Applicants who have given all the particulars as per the advertisement. A public body has to go as per the norms that they had advertised. They cannot digress from that when other people are waiting in the queue with all their papers and applications. Surely a public body cannot depart from what they have advertised.

11. In the circumstances, there was no reason for the learned Judge to review the order that he had passed earlier. The appeal is, therefore, allowed. The order passed in the review application is set aside and the review application stands dismissed. The order passed in the writ petition dismissing it remains as it is. Consequently, the connected miscellaneous petition is closed. There will be no order as to costs.