

(2009) 09 CAL CK 0003

Calcutta High Court

Case No: F.M.A. No. 774 of 2008

Damodar Valley Corporation and
Others

APPELLANT

Vs

Anup Purakayastha

RESPONDENT

Date of Decision: Sept. 14, 2009

Hon'ble Judges: Pranab Kumar Chattopadhyay, J; Kishore Kumar Prasad, J

Bench: Division Bench

Advocate: P.K. Ghosh, Ms. Indrani Chakraborty and Mr. R.I. Sardar, for the Appellant; P.S. Bhattacharyya and Mr. Ratan Pal, for the Respondent

Final Decision: Allowed

Judgement

1. This appeal is directed against the judgment and order dated 27th, September, 2005 passed by a learned Judge of this Court whereby and whereunder the said learned Judge finally disposed of the writ petition on merits and granted relief to the writ petitioner following the earlier Division Bench Judgment dated November, 2004 passed in the case of Rudra Pratap Singh v. Damodar Valley Corporation & Ors. and also following another judgment of the learned single Bench of this Court in the case of Smt. Ballari Sarkar wherein the identical issues were raised. As a matter of fact, this Bench had the occasion to decide the identical issues in the earlier judgment dated 28th, July, 2009 passed in F.M.A. 2528 of 2005 (Damodar Valley Corporation & Ors. v. Smt. Ballari Sarkar).

2. Undisputedly, the respondent/writ petitioner herein along with the said Smt. Ballari Sarkar applied for the post of Labour Welfare Officer and both Smt. Ballari Sarkar and the respondent/writ petitioner herein were initially absorbed as trainees by the appellants herein. Subsequently, the departmental proceedings were initiated against both on the identical grounds, that is, concealment of the qualification for the post in question and also for making false declaration.

3. This Court, in the case of Smt. Ballari Sarkar, discussed in details all the issues now raised in this appeal and rejected the contentions of the appellants herein. Unfortunately, even thereafter, the appellants decided to pursue the present appeal after loosing the battle on the identical grounds in the case of Smt. Ballari Sarkar (supra) and Rudra Pratap Singh (supra). It has been alleged on behalf of the appellants-Corporation that like Smt. Ballari Sarkar and Rudra Pratap Singh, the respondent/writ petitioner herein did not have the requisite qualification for the job in question, that is, Management Trainees of the appellant-Corporation since the respondent/writ petitioner had one year diploma certificate in lieu of requisite full time diploma in Labour and Social Welfare.

4. Going through the records, it appears that the respondent/writ petitioner fairly disclosed his qualifications together with supporting documents and certificates and thus never made any mis-representation to the employer, namely, the the appellants-Damador Valley Corporation.

5. In the advertisement also the appellants made it clear that the Corporation reserves the right to modify the qualification and experience. Since the Corporation retained the aforesaid power to modify the qualification and experience in respect of the applicants, the respondent/writ petitioner like others applied for the said post of Management Trainees with the expectations that competent authority of the Corporation may relax the qualification criteria.

6. The appellants herein allowed the respondent/writ petitioner to appear at the preliminary written examination after scrutinizing the original certificated produced by the said writ petitioner in support of his age, educational qualification and experience, etc. The respondent/writ petitioner duly appeared at the said preliminary written examination and was declared successful. The competent authority of the appellants thereafter asked the writ petitioner to appear at the interview when the competent authority of the respondent Corporation, namely, the Deputy Director Personnel (RNT) of the appellant-Corporation again scrutinized all the original testimonials submitted by the respondent/writ petitioner. The said original certificates were further produced before the members of Interview Board by the respondent/writ petitioner at the time of interview. Scrutinizing those certificates and also assessing the performance of the respondent/writ petitioner. Selection Committee recommended for appointment of the respondent/writ petitioner along with other successful candidates. The respondent/writ petitioner was also required to bring certificates and documents in original at the time of joining the training course.

7. Therefore, the respondent/writ petitioner had never made any false representation or suppressed any information with regard to academic qualification and experience, etc.

8. This Court in the case of Smt. Ballari Sarkar specifically discussed the identical issues now raised in the present appeal and rejected the contentions of the appellants herein. In the case of Rudra Pratap Singh also another Division Bench of this Court presided over by Asok Kumar Ganguly, J. (as His Lordship then was) considered the identical issues raised herein and rejected the contentions of the Damodar Valley Corporation authorities.

9. Mr. Ghosh learned senior counsel representing the appellants herein, however, strenuously argued before this Court that the aforesaid earlier judgments of the Division Bench of this Court in the case of Smt. Ballari Sarkar (supra) and Rudra Pratap Singh (supra) are distinguishable on facts which we respectfully disagree.

10. Mr. Ghosh referred to and relied on a judgment of the Supreme Court in the case of [State Bank of Patiala and others Vs. S.K. Sharma](#), wherein the principles to be followed in departmental enquiry have been discussed.

11. Mr. Ghosh also referred to and relied on another judgment of the Supreme Court in the case of [Indian Oil Corporation Ltd. and another Vs. Ashok Kumar Arora](#), wherein the powers of the High Court to interfere in department enquiry have been discussed.

12. We fail to understand how the aforesaid decisions will be of any help to the appellants herein as we are of the opinion that the issues raised in this appeal have already been decided in earlier two different Division Bench judgments of this Court, namely, in the case of Rudra Pratap Singh (supra) and Smt. Ballari Sarkar (supra). The learned single Judge has discussed the issues raised in the writ petition in details and following the decisions of this Court in the cases of Rudra Pratap Singh (supra) and Smt. Ballari Sarkar (supra) have allowed the writ petition and granted necessary relief to the said respondent/writ petition.

13. We do not find any illegality and/or irregularity and/or infirmity in the aforesaid decision of the learned single Judge. Therefore, we affirm the judgment and order under appeal passed by the learned single Judge and dismiss this appeal with costs assessed at 300 Gms. to be paid by the learned advocate-on-record of the writ petitioner within four weeks from date.

Let urgent xerox certified copy of this order, if applied for, be given to the learned advocates of the parties on usual undertaking.