

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+
%

W.P.(C) No. 7523/2010

11th July, 2013

YUDHVIR SINGH

..... Petitioner

Through: Mr. S.D.Singh, Mr. Jitender Singh and Mr.
Rahul Kumar Singh, Advocates.

versus

INDIAN OIL CORPORATION LIMITED

..... Respondent

Through: Mr. Rajat Navet, Adv.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. By this writ petition, the petitioner-Sh. Yudhvir Singh seeks quashing of the letter dated 28.8.2010 issued by the respondent no.1 denying compassionate appointment to the petitioner on the ground that Prathma Pariksha certificate of Hindi Sahitya Sammelan Allahabad obtained by the petitioner is not equivalent to matriculation from a High School.

2. Parties in the present petition had an earlier round of litigation and the petitioner succeeded in that litigation being W.P.(C) 125/2010. A learned Single Judge of this Court vide judgment dated 17.3.2010 allowed the writ petition and

held as not maintainable the defence of the respondent no.1 that compassionate appointment has to be considered not as per Rules when the employee dies in harness but the rules which are applicable at the time when the compassionate appointment is sought. This judgment has become final and respondent no.1 was to consider compassionate appointment subject to the petitioner having obtained a matriculation certificate in the extended time given by the respondent no.1 to the petitioner.

3. Learned counsel for the petitioner has placed reliance on the circular of the Government of India, Ministry of Human Resource Development dated 26.7.2001, as per which, the Central Government has recognized the Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad as equivalent to matriculation. This circular dated 26.7.2001 which was applicable for three years was thereafter continued for three years plus three years vide circulars of Ministry of Human Resource Development dated 14.5.2004 and 21.11.2006. The circulars dated 26.7.2001 and 21.11.2006 read as under:-

Circular dated 26.7.2001

“

New Delhi, the 26th July 2001.

NOTIFICATION(63)

No. F.24-4/2001-TS.III. On the recommendation of the High Level Committee for recognition of Educational Qualifications, the Government of India have decided to recognize the Prathama

Examination being conducted by Hindi Sahitya Sammelan, Allahabad for the purpose of employment under the central Government for the post for which the desired qualification is a pass in matriculation. The recognition is provisional for a period of 3 years after which the committee will review the recognition granted.”

Circular dated 21.11.2006

“New Delhi, the 21th November 2006.

NOTIFICATION

No. F.24-4/2001-TS.III. In continuation of this Department’s Notification of even number dated 14.05.2004, the Government of India, on the recommendations of high level Committee in its meeting held on 16.10.2006, has decided to extend the provisional recognition granted to the Prathama Examination being conducted by Hindi Sahitya Sammelan, Allahabad for the purpose of employment under the central Government for the post for which the desired qualification is a pass in matriculation for a further period of 3 years from 27.10.2007 to 26.10.2010, after which the Committee will review the recognition granted.

Sd/-

(Ravi Mathur)

Joint Secretary to the Government of India

To
The Manager
Government of India Press
Faridabad
No.F.24-4/2001-TS-III

New Delhi, the 21st November,2006

Copy forwarded for information to:

1. All State Governments and Union Territories (Education Department).
2. All Regional Offices of the Ministry of Human Resource Development (Department of Higher Education).
3. All Directors of Technical Education.
4. Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi.
5. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi.
6. All State Public Service Commission.
7. Association of Indian Universities, AIU House, 16, Kotla Marg, New Delhi-2.
8. DPIO (Ministry of Human Resource Development) Shastri Bhawan, New Delhi.
9. All Ministries and Departments of Government of India.
10. Chairman, AICTE, IP Estate, New Delhi.
11. Chairman, University Grants Commission, Bahadurshah Zafar Marg, New Delhi.
12. Chairman, Central Board of Secondary Education, 2 Community Centre, Preet Vihar, New Delhi.
13. Pradhanmantri, Hindi Sahitya Sammelan, Prayag, Sammelen Marg, Allahabad 211003.
14. Guard file.

Sd/-
(Ravi Mathur)
Joint Secretary to the Government of India”

4. In para-37 of the writ petition, petitioner has made a specific averment that this circular of the Ministry of Human Resource Development is binding on the respondent no.1 and in reply to this all that respondent no.1 states is that this is a matter of record. Therefore, the respondent no.1 does not dispute that the circulars issued by the Ministry of Human Resource Development dated 26.7.2001 and 21.11.2006 are binding on the respondent no.1. I may note that in fact as per the endorsements made in the circular dated 21.11.2006, the said circular has been marked to various bodies including the UPSC, Staff Selection Commission, Chairman; AICTE, Chairman; UGC and Chairman of Central Board of Secondary Education thereby showing the acceptance of the Central Government for the purpose of giving employment of the certificate issued pursuant to the Prathama Examination conducted by Hindi Sahitya Sammelan, Allahabad and that the same will be treated as equivalent to matriculation for the purpose of employment. Whether or not as per law the Prathama Examination of Hindi Sahitya Sammelan is or is not equal to a matriculation is not the issue and the issue is that for the purpose of employment this Prathama Examination certificate is theoretically taken as equivalent to matriculation.

5. In view of the above, since the petitioner has complied with requirements within the time prescribed by the respondent no.1 and has obtained

the Prathama Examination certificate conducted by Hindi Sahitya Sammelan, Allahabad, petitioner therefore has the necessary qualification for being granted compassionate appointment. I may note that the compassionate appointment in this case is not of an extremely technical post or of a very high post, and the appointment is only to the post of a peon for which the requirement is only of matriculation qualification.

6. In view of the above, the writ petition is allowed and respondent no.1 is directed to give compassionate appointment to the petitioner as a peon within a period of four weeks from today. Parties are left to bear their own costs.

VALMIKI J. MEHTA, J

JULY 11, 2013

ib