

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.425 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 6836 of 2015

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Sandeep Kumar, Son of Shree Manilal Keshri, Resident of Mohalla Masudbigha
Kalali Road, P.O.-Barh, P.S.-Barh, District-Patna.

.... Appellant/s

Versus

1. The Union of India through Secretary Staff Selection Commission, head Office New Delhi.
2. The Secretary, Staff Selection Commission (CR) Allahabad.
3. The Staff Selections Commission Department of Personnel and Training, Allahabad.
4. The Ministry of Personnel and Public Grievances and Pension Lodi Road, New Delhi.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Nath Sinha, Advocate
For the U.O.I. (S.S.C.) : Mr. Rajesh Kumar Verma, Advocate.

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CORAM:

HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 09-11-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-Court appeal is to the judgment dated 11.01.2016 by which C.W.J.C. No. 6836 of 2015 filed by the appellant has been dismissed by the learned Single Bench.

3. The appellant applied for the post of Assistant pursuant to Advertisement dated 29.10.2011 inviting application for combined recruitment for Assistant Grade III in General Depot, Technical and Accounts Cadres and Hindi Posts (AG-II) and Typist



in the Food Corporation of India by the Staff Selection Commission (CR) Allahabad (hereinafter referred to as the 'Commission'). The appellant qualified in the preliminary test and thereafter also in the main examination and was declared qualified with Rank No. SL/0749 against the vacancies allotted to zone 'C' to the post of AG-III (Accounts) i.e., Post Code 'B' on the basis of his merit option of zone exercised by him and preference of post opted by him. The appellant not possessing the qualification for appointment to the post of AG-III (Accounts) filed C.W.J.C. No. 6836 of 2015 seeking a direction to appoint him on the post of AG-III (General) in West Zone or South Zone in the Food Corporation of India and dismissal of the same has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that he had opted for the post of AG-III (General) for Zones C, B, A, E and D though his candidature was rejected for Zone- 'C' having secured 259 marks, but being in the list of successful candidates for such post he was required to be considered for the other Zones and the exercise undertaken by the respondents is arbitrary. He submitted that the appellant had secured 259 marks whereas for AG-III (General), the cut off marks for Zone- 'D' was 255 marks and Zone 'B' was 255.25 marks, i.e., less than what the appellant had secured. It was submitted that the appellant never disclosed that he possessed the requisite



qualification for appointment on the post of AG-III (Accounts) and, thus, once having not made it to AG-III (General) post in Group 'C', his case ought to have been considered for the same post in the other Zones as per his preference and the respondents allotting him the post of AG-III (Accounts) is not justified, either on facts or in law.

5. Learned counsel for the respondents submitted that as per the clear cut instructions in the advertisement itself, the exercise adopted by the respondents, which has been noticed in detail in the order under appeal, by the learned Single Bench, the appellant is not entitled to any relief.

6. Having considered the matter, we do not find any merit in the present Letters Patent Appeal. The undisputed fact is that in the application form filled up by the appellant, the following options were given in order of preference for the Zones and posts:

Zones:-

C (North Zone),
B (West Zone),
A (East Zone),
E (North East Zone),
D (South Zone)

Posts:-

A {AGIII (General)},
B {AG III (Accounts)},
E {AG II (Hindi)}
F {Typist (Hindi)}

7. The position emerging from the aforesaid has been



explained with clarity by the respondents no. 1 and 2 in the counter affidavit filed on their behalf in the writ proceeding and the relevant is quoted hereinbelow for ready reference:

“12. That it was very clearly mentioned in the initial paragraph of the Notice of the Examination that Staff Selection Commission (SSC), Government of India, will make recruitment to these posts on behalf of the Food Corporation of India under special dispensation given by the Government.

13. That it was very clearly mentioned in para 2 of “Important Instructions to candidates” in Annexure II that “FCI does not seek documentary evidence in proof of Educational Qualification, age, category, and will not undertake detailed scrutiny of applications for the eligibility and other aspects at the time of written examination and, therefore, the candidature is accepted only provisionally. The candidates are advised to go through the requirements of educational qualification, age etc. and satisfy themselves that they are eligible before applying. Copies of supporting documents will be sought from those candidates who qualify in all stages of examination. When scrutiny is undertaken, if any claim made in the application is not found substantiated, the candidature will be cancelled and such decision shall be final. Candidates are specifically advised to see the Essential Qualifications prescribed for the post. Staff Selection Commission is not responsible in any way for determining the eligibility of candidates and their reservation. No representations in this regard will be entertained by the Commission”.

14. It was also very clearly mentioned in Note-IV (just above para B1) of para A3 that “Allocation of candidates to different zones will be done on the basis of merit cum option of Zone and therefore, to different posts within the zone. Seniority for all purpose will be maintained within the zone.

15. That the candidates applied in the examination were very clearly cautioned through



Annexure-IIA under heading “INSTRUCTIONS FOR FILLING UP THE APPLICATION” of Notice of the Examination that “Candidates are advised to be careful in exercising their preference as selection will be made zone wise first and then post wise within the Zone. You will be considered for the posts in the order of your merit for each post within the zone allocated to you. Requests for change will not be entertained later”.

16. That in view of above, it is the responsibility of the candidate to go through the provisions of Notice of the Examination and Educational Qualification prescribed for the particular post. If any candidate failed to act as per the provisions of Notice of the Examination, he himself is responsible for non compliance of provisions of Notice of the Examination for which respondents cannot be held responsible.

17. That it was also the responsibility of the candidate to verify and satisfy himself whether he is eligible for the posts he had applied.

Photocopy of the Notice of the Examination is annexed hereto and marked as **Annexure- R/5** to the present affidavit.

18. That the petitioner applied for the said examination and he was allotted Roll No. 320652171. Accordingly, on the basis of entries made by the petitioner in his Application form, he was allowed to appear in the examination on purely provisional basis, subject to fulfillment of eligibility criteria prescribed in the Notice of the Examination.

19. That, it is pertinent to mention here that candidates applied in the examination were required to submit their preference of zones as per



their choice and posts as per eligibility. The candidates applying for the recruitment were very clearly cautioned and instructed about the preference for Zones-Zones codes through para 14 and about the preference for posts- Post Codes through para 14(i) under “INSTRUCTIONS FOR FILLING UP THE APPLIATION” of Brochure (Annexure-IIA) of Notice of the Examination Preference of Zone and post code is reproduced as under:-

14 Preference for Zones- Zone Codes

East Zone	- A
West Zone	- B
North Zone	-C
South Zone	-D
North East Zone	-E

14(i). Preference for posts –Post Codes

AG III (General)	-A
AG III (Accounts)	-B
AG III (Technical)	-C
AG III (Depot)	-D
AG II (Hindi)	-E
Typist (Hindi)	-F

20. That the petitioner in his application form submitted his option for Zones in order of

C (North Zone),
B (West Zone),
A (East Zone),
E (North East Zone),
D (South Zone)

and for Posts in order of

A {AGIII (General)},
B {AG III (Accounts)},
E {AG II (Hindi)}
F {Typist (Hindi)}

21. The detailed Education qualification prescribed for the above mentioned posts was given in para A2 of the Notice of the Examination.

22. That the final result of said examination was declared on 18.08.2012 and on the basis of his performance, he was declared finally qualified against



vacancies allotted to Zone 'C' to the post of AGIII (Accounts) i.e. post code 'B' on the basis of his merit, option of Zone exercised by him and the preference of posts opted by the petitioner. Accordingly, the dossier of the candidate was forwarded to the office of FCI by SSC letter no. 221/SSC-CR/2012 Nom. (FCI) dated 24.09.2012 (inadvertently mentioned as 24.08.2012 in the forwarding letter) for issuance of offer of appointment after completing required formalities as prescribed in the Notice of the Examination.

Photocopy of write up of said result dated 18.08.2012, result of petitioner and the letter dated 24.09.2012 is annexed hereto and marked as **Annexure-R/6 (series)** to the present affidavit."

8. Having regard to the aforesaid, we do not find any error in the selection exercise undertaken by the respondents, especially the Commission, in forwarding the name of the appellant along with others for the post of AG-III (Accounts) and for issuance of offer of appointment after completing the required formalities as prescribed in the notice of examination. Once the appellant, as per the details given in the application form filled up by him, was recommended for the post of AG-III (Accounts) in Group 'C', obviously his case could not have been considered for any other post in any other Zone. As has been explained in the counter affidavit, as quoted hereinabove, such recommendation was based on the disclosure made by the appellant himself in the application form and



only at the time of making final appointment verification had to be made with regard to qualification due to which the appellant ultimately not possessing the requisite qualification for appointment to such post could not be finally appointed. The procedure followed, besides being uniform, is also reasonable and it is the appellant himself who has to take the responsibility for any lapse in filling up of the form correctly. Moreover, the results having been declared on 18.08.2012 and the same being assailed after nearly three years is an additional good ground not to interfere in the matter.

9. In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal which, accordingly, stands dismissed.

(Hemant Gupta, ACJ)

(Ahsanuddin Amanullah, J)

P. Kumar

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