

LPA no. 862 of 2015 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA no. 862 of 2015 (O&M)
Date of Decision : 06.04.2017**

Ritika

....Appellant(s)

Versus

Bharat Petroleum Corporation Limited and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Vijay Pal, Advocate for the appellant

Mr. Raman Sharma, Advocate for Corporation

Mr. Mohit Garg, Advocate for respondent no.4

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned
Single Judge dated 13.10.2014.

The appellant was an aspirant for a retail outlet intended
exclusively for women. Being fully eligible she was considered and
awarded 93.09 marks as against 56.9 marks awarded to respondent no.4.
The dealership was abruptly cancelled in June, 2013 on the ground that the
appellant had concealed material facts by furnishing a certificate of
experience stating her employment as a Sales Manager at Chaudhary Petrol-
Pump, Obra, District Bhiwani from 7.8.2010 till the date of its issuance.

The appellant was not formally confronted with the material adverse to her by the Corporation before cancellation of the retail outlet in her favour which led to an argument raised before us as also before writ Court of violation of principles of natural justice which was explained away by the Corporation, that in field verification report the appellant had an opportunity to submit an affidavit which she did. Thereby satisfying the requirement of an opportunity of hearing.

Learned counsel for the appellant contends that there was absolutely no concealment if the conditions contained in the form are construed. With a reference to the information supplied which is appended to the writ proceedings as Annexure P-5, the appellant declared her educational qualification as Bachelor of Engineering correctly as she did her work experience by writing “working on petrol pump”.

Against column of selling experience, she wrote that she was working as a Sales Manager on a petrol pump and she had an experience to handle its affairs. The argument in short is that there was no requirement of indicating whether the engagement as a Sales Manager was on full time basis or part time basis which is the solitary ground taken to cancel the dealership by the Corporation.

Learned counsel for the Corporation contends that there was indeed concealment of the facts if the column of experience and other related information is to be seen. For the purposes of reference, we may extract the information regarding selection criteria given out by the Corporation itself:-

Parameter	Sub heads	Description	Marks	Evaluation
Experience Max. 4	Business experience	Retail trade of petroleum products	4	Based on furnishing of

marks)		Related petroleum trade/transport/ automobiles	3	documentary evidence to establish the relevant service Manangerial supervisory experience of one year will qualify for full marks and proportionate for lessor experience
		Hospitality/Service industry/FMCG others	2	

A perusal of the above clearly indicates that there is no requirement of giving a specification of the employment/experience being on full time or part time basis and if that be so then an aspirant cannot be penalized on the ground of concealment of facts. The certificate issued by the petrol pump where the appellant gained experience merely states her engagement from 7.8.2012 onwards till the date of issuance of the certificate with no specifics of full time or part time.

Therefore, it cannot be said that there was any wilful concealment by the appellant and consequently the ground taken to cancel the dealership would not be justified and more particularly so, assuming her experience had to be discarded, then in the selection process she could have been deprived of 4 marks in which eventuality also the appellant would be way up than respondent no.4 in merit.

Since this is the only ground taken to cancel the dealership we are of the considered view that the Corporation was clearly in the wrong and for the very same reason that the learned Single Judge failed to appreciate this, we would set aside the impugned orders. Ordered

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accordingly.

Appeal stands allowed.

(Mahesh Grover)
Judge

06.04.2017
rekha
Whether speaking/reasoned Yes/No
Whether reportable Yes/No

(Shekher Dhawan)
Judge