

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.7973 of 2017
and W.M.P.No.8859 of 2017

Dr.N.Karthikeyan
Asst. Director (Chemical). .. Petitioner

-vs-

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Family Court Buildings,
Madras High Court, Chennai 600 104.
2. The Development Commissioner,
Ministry of Micro, Small and Medium
Enterprises, Govt. of India, 7th Floor,
Nirman Bhawan, New Delhi.
3. The Secretary,
Union Public Service Commission,
New Delhi. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the 1st respondent made in O.A.No.42 of 2013 vide order dated 23.08.2016 and quash the same and consequently direct the respondents 2 and 3 to appoint the petitioner as Deputy Director (Chemical) OBC Category in the 2nd respondent Department and fixing his seniority as Deputy Director (Chemical) with effect from 18.11.2011.

For Petitioner : Mr.B.Jeganath

* * * * *

O R D E R

(Order of the Court made by The Hon'ble Chief Justice)

This writ petition is directed against the order of the Central Administrative Tribunal dated 23.08.2016 in O.A.No.42 of 2013 preferred by the petitioner. By the said order, the O.A. preferred by the petitioner came to be dismissed. In the O.A., it was prayed that directions be issued to the respondents, in particular, third respondent, i.e., The Secretary, Union Public Service Commission, New Delhi, to consider the claim of the petitioner for appointment to the post of Deputy Director (Chemical) under OBC category on merits, after extending the interview to the petitioner, pursuant to the Notification issued by the third respondent in Advertisement No.07-Vacancy No.11040703209 published in Employment News 9-15 April 2011.

2.The brief facts of this case are that the petitioner was appointed as Investigator (Chemical) in the second respondent Department, i.e.,The Development Commissioner, Ministry of Micro, Small and Medium Enterprises, on 21.10.1988. The Union Public Service Commission (UPSC) called for applications for the post of Deputy Director (Chemical) on 09.04.2011 and two vacancies were notified. The grievance of the petitioner is that though he was eligible to be appointed to the said post, he was not called for interview. The petitioner, thereafter, made representation to the second respondent on 01.01.2013, but there was no response. Hence, he approached the Central Administrative Tribunal by preferring O.A.No.42 of 2013.

3.The case of the respondents was that the petitioner did not have the necessary five years experience in a supervisory/managerial capacity in a technical organisation or industrial concern in Drug Pharmaceutical Fine Chemical, Matches, Rubber and Plastics or other allied trades, therefore, he did not qualify, hence, he was not called for interview.

4.The learned counsel for the petitioner submitted that to his application, he has annexed a certificate which shows that in fact, he had experience in supervisory/managerial capacity for five years. He submits that the petitioner was in service for twelve years and eleven months on the date of the application and he has listed out his duties in the certificate annexed to his application, which showed that he had experience in supervisory/managerial capacity for more than five years. Learned counsel for the petitioner further submitted that he has also filed the experience certificate on 22.07.2016, wherein it is certified that he is having experience in supervisory/managerial capacity.

5. We have perused the certificate, which was annexed by the petitioner to his application. The said certificate does not clearly mention anywhere that the petitioner had experience of supervisory/ managerial capacity for at least five years. Thus, it is seen that at the time of application, the petitioner did not submit the necessary certificate relating to his experience as required by the advertisement. It is also to be noted that the selection process for the said post was over in the year 2011 itself and the petitioner has submitted the certificate, as required, in the year 2016.

6. We cannot find any fault with the respondents for not calling the petitioner for interview, because his application could not have been said to be a complete application in all respects. An application can be said to be a complete application when it is accompanied by relevant and necessary annexures. If the necessary annexures are not annexed to the application, it cannot be said to be an application which is worthy of consideration. As stated earlier, the application of the petitioner, which was submitted for the post of Deputy Director (Chemical), was not in compliance of the requirements stated in the advertisement.

7. The Apex Court in the case of Dental Council of India vs. SRM Institution of Science and Technology, reported in (2004) 9 SCC 676, has laid down that an incomplete application cannot be entertained. Further, the Apex Court in the case of Islamic Academy of Education vs. State of Karnataka, reported in (2003) 6 SCC 687, held that an application will not be complete without being accompanied by essentiality certificate along with certain other documents and in absence thereof, the said application cannot be processed.

8. The Supreme Court, in the decision in the case of Union of India vs. All India Children Care and Educational Development Society, Azamgarh and Another, reported in (2002) 3 SCC 649, has observed that an application submitted in full compliance with the statutory and mandatory pre-conditions alone would be entitled to the benefit. In the said case, the Society had to fulfill the requirements of owning and managing a 300 bed hospital, the details whereof should have been incorporated in the application. However, no such details were furnished, hence, it was held that the respondent therein had not fulfilled all the requirements, which, it was under an obligation to fulfill on the date of making of the application. Thereafter, the Supreme Court observed that thus, when there was no fulfillment of the conditions required, the High Court's order of allowing the writ petition of the respondent Society cannot be sustained.

9.The learned counsel for the petitioner submitted that the Central Administrative Tribunal did not take into consideration that necessary certificate has been submitted by the petitioner. However, even he has admitted that the said certificate was submitted in the year 2016. By that time, the selection process was already over. As stated earlier, at the time of making the initial application pursuant to the advertisement in April, 2011, the certificate annexed by the petitioner does not clearly show that he had necessary five years experience in supervisory/managerial capacity. Thus, the petitioner had not fulfilled all the requirements which were necessary, in such case, there was no obligation on the respondents to consider such an application. The Central Administrative Tribunal has taken into consideration all the above facts and has, thereafter, dismissed the O.A.

In view of the above facts, no case is made out for interference. The writ petition is dismissed. No costs. Consequently, W.M.P.No.8859 of 2017 is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Registrar,
Central Administrative Tribunal,
Chennai Bench, Family Court Buildings,
Madras High Court, Chennai 600 104.
2. The Development Commissioner,
Ministry of Micro, Small and Medium Enterprises,
Govt. of India, 7th Floor,
Nirman Bhawan, New Delhi.
3. The Secretary,
Union Public Service Commission,
New Delhi.

+1cc to Mr.A.Jenasenan, Advocate, S.R.No.55919

W.P.No.7973 of 2017

SS(co)
rrs 06/09/2018