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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5955/2018 & CM Nos.23206-08/2018**

RAJESH SHARMA

..... Petitioner

Through: **Mr.Nitin S.Tambwekar &
Mr.Seshatalpa Sai Bandaru,
Advs.**

versus

**UNIVERSITY GRANT COMMISSION
AND ANR.**

..... Respondents

Through: **None**

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

29.05.2018

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1. The petitioner is aggrieved by the order dated 04.01.2018, whereby the Tribunal has dismissed the Original Application filed by him praying *inter alia* that the selection process dated 13.04.2010, for the post of Dispatch Rider undertaken by the respondent No.1/UGC be quashed and set aside and consequential orders be passed.

2. Briefly stated, the facts of the case as gleaned from the record are that vide letter dated 15.01.2010, the respondent No.1/UGC had sent a requisition to the Employment Exchange, Pusa Road, New Delhi to fill up one post of Dispatch Rider in the pay-scale of ₹5200 –

20200/- plus ₹1900/- (Grade Pay). On 15.01.2010, the Employment Exchange had sent a list of 7 candidates including the name of the petitioner herein to the respondent No.1/UGC. The said seven candidates plus two departmental candidates were directed to appear before the Automobile Association of Upper India, New Delhi to participate in a practical test. Only four candidates out of nine candidates had appeared in the practical test and their performance reports were received by the respondent No.1/UGC.

3. Thereafter, the respondent No.1/UGC had constituted a Screening Committee for making appointment to the post of a Dispatch Rider, that had conducted a meeting on 12.03.2010. After going through the extant Recruitment Rules in respect of the subject cadre, the Screening Committee had observed that one of the four candidates did not possess the essential qualification of three years experience and was unsuitable for the interview. This left three candidates in the fray, including the petitioner herein and the respondent No.2, who were eligible for being called for an interview.

4. Vide letter dated 09.04.2010, the respondent No.1/UGC called upon the shortlisted three candidates including the petitioner herein to appear before the Selection Committee for an interview scheduled on 13.04.2010. The candidates were also directed to produce their original certificates, including certificate of birth, driving licence and experience certificate etc. The petitioner, the respondent No.2 herein and the third candidate, namely, Mr.Mukesh had appeared before the Selection Committee on 13.04.2010. After going through the merits of each of the three candidate, the Selection Committee unanimously

drew up the order of merit for the post of Dispatch Rider as follows:

- (i) Mr.Dinesh Kumar (Respondent No.2 herein)
- (ii) Mr.Rajesh Sharma (Petitioner herein)
- (iii) Mr.Mukesh

5. The Selection Committee recommended the name of the respondent No.2 herein, who was placed at Serial No.1, for the post of Dispatch Rider. The recommendations of the Selection Committee were accepted by the respondent No.1/UGC, who appointed respondent No.2 to the post of Dispatch Rider on 13.04.2010.

6. Subsequently, after about two years on 25.01.2012, the respondent No.1/UGC received a complaint in respect of the respondent No.2 alleging *inter alia* that he had fabricated his birth certificate, driving licence, school leaving certificate etc. Vide letter dated 20.03.2012, the respondent No.1/UGC wrote to the Head Master of Krishak Adarsh Vidyapeeth Junior High School, Ghaziabad, U.P. for verifying the age certificate submitted by the respondent No.2. Vide letter dated 20.03.2010, respondent No.1/UGC also sought a clarification from the Assistant Regional Transport Officer, Ghaziabad Licence Authority regarding the genuineness of the driving licence submitted by the respondent No.2 at the time of his selection.

7. In the reply dated 27.03.2012, the Assistant Regional Transport Officer, Ghaziabad Licence Authority informed the respondent No.1/UGC that the licence of the respondent No.2 had initially been issued on 17.09.1999, and presently was valid from 16.03.2012 to 15.03.2015. The Principal of Krishak Adarsh Vidyapeeth Junior High School, Ghaziabad, U.P. also replied to the respondent No.1 vide letter

dated 28.03.2012, certifying that the respondent No.2 has passed the Class-VIII in the year 1988-89 at Serial No.485 and as per the records available in the school, his date of birth is 09.05.1977. After satisfying itself about the genuineness of the school leaving certificate and driving licence submitted by the respondent No.2, the respondent No.1/UGC closed the matter.

8. Not satisfied with the said decision, the petitioner herein, who was waitlisted at Serial No.1, filed O.A. No.1750/2013 before the Tribunal on 10.04.2013, challenging the appointment of the respondent No.2 to the post of Dispatch Rider. By the impugned judgment, the Tribunal dismissed the Original Application filed by the petitioner by taking note of the fact that the respondent No.1/UGC had duly verified the documents submitted by the respondent No.2 from the concerned authorities who had stated in clear terms that the said certificates and the driving licence issued to the respondent No.2, are genuine.

9. Aggrieved by the said decision, the petitioner has filed the present petition. The grounds taken in the present petition range from the plea that after examining the practical test conducted by the Automobile Association of Upper India, New Delhi the Screening Committee had wrongly placed the respondent No.2 at Serial No.1 and the petitioner at Serial No.2; that the petitioner, who is 10+2 pass from CBSE, is better qualified than the respondent No.2, whose Class-VIII certificate is forged and fabricated; that the driving licence of the respondent No.2 is fabricated; that the respondent No.1/UGC did not undertake a due diligence for establishing the genuineness of the birth

certificate, driving licence and the school leaving certificate of the respondent No.2 and had the said exercise been undertaken diligently, the respondent No.2 would have been removed from service. Further, several questions have been raised by the petitioner as to how the respondent No.2 was admitted in the school in question on a date that happened to be a holiday and so on, so forth.

10. In view of the averments made by the respondent No.1/UGC in the counter affidavit, which shows that every effort was made by the UGC to satisfy itself about the genuineness of the documents submitted by the respondent No.2 at the relevant point of time, we find no justification to interfere in the findings returned by the Tribunal. Further, disputed questions of facts are sought to be raised in this petition which is impermissible. We may also note that the respondent No.1/UGC had appointed respondent No.2 on the post of Dispatch Rider as long back as on 13.04.2010. If the petitioner was aggrieved, he ought to have taken immediate steps to challenge the said appointment within a reasonable time. Instead, the petitioner elected to approach the Tribunal after three years, on 10.04.2013, without offering any explanation for the delay. Admittedly, the cause of action had first arisen in favour of the petitioner on 13.04.2010, when the respondent No.1/UGC had appointed the respondent No.2 on the subject post. The provisions of Section 21 of the Administrative Tribunal Act, 1985 that prescribes the period of limitation, are clear in this regard. In terms of the said provision, the petitioner ought to have filed a petition within a period of one year from the date when the respondent No.2 was appointed to the subject post. However, the

petitioner took his own sweet time to approach the Tribunal for relief and that too in a matter relating to appointment. Despite the same, the Tribunal has decided the Original Application filed by the petitioner on merits.

11. For the reasons stated hereinabove, we decline to entertain the present petition. The same is dismissed *in limine*, as meritless alongwith the pending applications.

HIMA KOHLI, J.

PRATIBHA RANI, J.

MAY 29, 2018

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