

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

Date of Order: May 23, 2018

+ **W.P.(C) No. 5558/2018 & CM Nos. 21666-67/2018**

SHYAM LAL JANI & ORS. Petitioners

Through: Mr. Puneet Kumar and Ms.
Pallavi Awasthi, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Gigi C George, Sr. Panel
Counsel and Mr. R M Tripathi,
Advocates for R-1
Mr. Abhishek Puri, Mr. Yasharth
Mishra and Ms. Surbi Gupta,
Advocates

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Nine posts of Security officers were advertised by respondent-ONGC and petitioners had applied for the said post. After participating in the selection process, petitioners had assailed the declaration of result on the ground that the pass percentage as per the ONGC Norms is 65%, but in the Advertisement, it has been fixed as 60% and some of the selected candidates had not obtained 'No Objection Certificate' (NOC) from their respective employers before appearing in the interview, but still they have been selected.

2. In the first round of litigation, vide order of 21st February, 2018 (Annexure P-10), petitioners were relegated to represent before respondent-ONGC which they have done. Impugned order of 16th April, 2018 rejects petitioners' Representation while observing that the allegations leveled are un-substantiated and the selection to the post of Security Officers was conducted in a fair manner.
3. Learned counsel for petitioners assails impugned order of 16th April, 2018 on the ground that petitioners have been deliberately given one mark less than the minimum passing marks in the interview, so that they are not empanelled in the merit list and this has been deliberately done at the instance of Shri M D Ojha, General Manager (Security) in ONGC, who had joined respondent-ONGC after retiring from CRPF and he has favoured the candidates from CRPF.
4. It is further submitted by petitioners' counsel that some of the selected candidates have been allowed to join without obtaining NOC from their previous employers and even prior to the declaration of result, a complaint was made by one Sunil on 7th January, 2018 regarding the result being manipulated to favour few persons.
5. Learned counsel for petitioners submits that the meritorious candidates have been ignored and the interview conducted was a formality as only one or two questions were asked and the interview of candidates lasted only for one or two minutes.
6. It is pointed out by petitioners' counsel that candidates who have low score in CBT have been selected whereas petitioners were having high score in CBT but in the interview petitioners have been

discriminated and those who belonged to CRPF have been favoured. Thus, quashing of the impugned selection is sought.

7. On the other hand, learned counsel for respondent-ONGC supports the impugned order and submits that it threadbare deals with the reckless allegations of petitioners. Attention of this Court is drawn to Annexure (A-I) to impugned order to submit that the selected candidates had scored higher in the interview and even if petitioners are given minimum marks in the interview, still they do not qualify. It is pointed out that that Shri M D Ojha, General Manager (Security) was not the Member of the Selection Committee and was not the Approving Authority for the recruitment for the post of Security Officers.

8. Regarding candidates being interviewed without an NOC, it is submitted by learned counsel for the respondent-ONGC that only those candidates were interviewed whose NOC was under process and now, after the selection, the candidates have joined only after they had submitted the NOC. Thus, it is submitted that there is no irregularity in the selection for the post of Security Officers and so this writ petition deserves dismissal.

9. The scope of judicial scrutiny in matters of appointment/selection has been reiterated by Supreme Court in *Sajeesh Babu K v. N K Santhosh*, (2012) 12 SCC 106. Pertinent observations made by Supreme Court in *Sajeesh Babu K*. (Supra) are as under :-

“20. It is clear that in a matter of appointment/selection by an Expert Committee/Board consisting of qualified persons in the particular field, normally, the courts should be slow to interfere with the opinions expressed by the experts, unless there is any allegation of mala dies against the experts who

had constituted the Selection Committee. Admittedly, in the case on hand, there is no allegation of mala fides against the three experts in the Selection Committee. In such circumstances, we are of the view that it would normally be wise and safe for the courts to leave the decision of selection of this nature to the experts who are more familiar with the technicalities/nature of the work. In the case on hand, the Expert Committee evaluated the experience certificates produced by the appellant herein, interviewed him by putting specific questions as to direct sale, home delivered products, hospitality/service industry, etc. and awarded marks. In such circumstances, we hold that the High Court ought not to have sat as an appellate court on the recommendations made by the Expert Committee.”

10. Upon hearing and on perusal of impugned order and the material on record, I find that the Advertisement (Annexure P-1) clearly provided that the minimum marks to be obtained in the interview is 60% individually. Despite being aware of it, petitioner had participated in the selection process and so, now, after being unsuccessful in getting selected, petitioner cannot turn around and challenge the minimum eligibility criteria as provided in the Advertisement. It is so said in view of the Supreme Court decision in *Pradeep Kumar Rai & Ors. Vs. Dinesh Kumar Pandey & Ors.* (2015) 11 SCC 493.

11. Attention of this Court is drawn (Annexure-I) to the impugned order, which gives the details of marks obtained by the selected candidates. It is matter of record that petitioners have secured 45.5, 46 and 47 marks in CBT and their marks in the interview were 6 and 8 respectively. When compared with the marks of selected candidates, it becomes apparent that even if petitioners were given minimum marks for

the interview still they could not have qualified as the total score of petitioners is 72%, 75% and 75.7% whereas the total score of last selected candidate is 78%. Regarding non-submission of NOC at the time of interview, I find that since NOC of some of the candidates was under process, therefore, they were provisionally interviewed and after the declaration of result and upon submission of NOC, they have been selected. So, no irregularity on this account can be attributed to respondent-ONGC.

12. It is evident from impugned order that Shri M D Ojha was neither the member of the Selection Committee nor was the approving authority of the recruitment in question. And so, the allegation of CRPF candidates only being selected is neither here nor there. Otherwise also, it transpires from the impugned order that only two candidates out of the nine selected candidates are from CRPF and so, it cannot be said that CRPF candidates have been favoured.

13. In the considered opinion of this Court, there is no basis to conclude that the selection process was improperly conducted. Merely because the interview of some candidates lasted for few minutes, would not justify the conclusion that the interview was manipulated.

14. Upon considering the impugned order in its entirety, this Court finds no infirmity in it. Hence, this petition and the applications are dismissed being bereft of merit.

(SUNIL GAUR)
JUDGE

MAY 23, 2018

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