

CWP-7114-2016 (O&M)

Date of decision: 22.08.2019

PRABHJOT SINGH

...PETITIONER

VERSUS

PUNJAB POLLUTION CONTROL BOARD
AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGAPresent: Mr. Animesh Sharma, Advocate
for the petitioner.Ms. Reeta Kohli, Sr. Advocate with
Ms. Chahat Aggarwal, Advocate
for respondent No.1.

ARUN MONGA, J. (ORAL)

Pursuant to an advertisement dated 08.10.2014 (Annexure P-2), petitioner applied to the post of Junior Scientific Officer. Requisite qualification as prescribed therein are extracted hereinbelow:-

"1st Class Master's Degree in Life Science or Basic Science or Environment Science or Biotechnology or any other Microbiology or any other related Sciences from a recognized University/Institute with at least three years' experience in analytical work in the Govt. Department/Public Sector Undertaking Organization or a concern of repute.

Knowledge of Computer:

The candidate must have undergone a computer course of six months duration from a reputed institute".

2. The petitioner being Majbhi Sikh belongs to SC/(M&B) category and from conjoint perusal of the pleadings it emerges that two posts of Junior Scientific

Officer were reserved for SC/(M&B). Based on the qualifications which were found to be in order by the Selection Committee, petitioner was duly considered. However, he was found ineligible on the ground that he does not possess requisite experience of three years analytical work in relevant field. He was thus not found suitable for selection to the post of Junior Scientific Officer.

3. Learned counsel for the petitioner on the other hand submits that the petitioner was in fact the only qualified candidate in the category of SC/ (M&B). With regard to three years experience, he furnished experience certificates Annexure P-5 (Colly) to the respondent. To my mind, controversy of possessing three years of experience is not of much relevance. The lis here is qua rejection of the petitioner on the ground of lacking the experience in "relevant field" viz-a-viz the parameters of experience envisaged in the advertisement. A perusal of the relevant parameters qua the experience in advertisement leave no manner of doubt that a candidate was to have "atleast three years of experience in analytical work in Govt. Department/ Public Sector Undertaking or a concern of repute". It is not disputed and also cannot be in view of the requisite experience certificates (Annexure P-5 Colly) which reflects that petitioner had indeed been working for three years as Senior Laboratory Technician in Government Hospital at Rupnagar. That apart, the petitioner also submitted certain other experience certificates but since the experience certificate of Government Hospital itself is sufficient for the purpose of counting three years, therefore, I am not going into the veracity of those other experience certificates.

4. Adverting to the three years experience in analytical work, the petitioner has made a specific averment in Para 8 of the writ petition that being a qualified Microbiologist, his job as a Senior Laboratory Technician was certainly analytical in nature and he has to analyse everyday various medical samples and

5. To be noted that the advertisement nowhere stated that a candidate had to have experience of analytical work in a relevant/specific field. If that were to be so then which is the relevant field? Advertisement is absolutely silent! All it says is that experience in analytical work Masters Degree in any with Microbiology or any other related Sciences. The Selection Committee has rejected the candidature ostensibly on the ground that the petitioner lacks experience in relevant field.

6. The petitioner, in all likelihood had a legitimate expectations in terms of correct interpretation of the advertisement, which clearly states that a candidate had to have analytical work experience. It is not for this Court to add words to the tune that analytical work was to be read as analytical work in the relevant field. It was for the advertising authority/ Competent authority to make it clear in the advertisement that the analytical work ought to have been in a specific relevant field by mentioning which field. To my mind, it seems to be an after thought to reject the candidature of petitioner by adding words relevant filed. Advertisement does not specify it and that is why petitioner was considered eligible and qualified. If relevant field was to be the criteria then petitioner would have been held ineligible to even apply, provided the specified field was mentioned in the advertisement.

7. Learned Senior Counsel for respondent No.1 as well as the learned counsel for the petitioner relied on certain judgments of Hon'ble Supreme Court of India titled as ***K. Manjusree Versus State of A.P. and another, (2008)1SCC(LS)84, Ashish Kumar Versus State of Uttar Pradesh and others, (2018) 3 SCC 55 and Dr. Basavaiah Versus Dr. H.L. Ramesh and others, 2010(8) SCC 372*** during the course of hearing.

8. Learned Senior Counsel has strenuously emphasised on the fact that on the basis of the same very reasoning of not having experience in the relevant field, candidature of other persons, who had applied, was also rejected. The same

may though sound attractive but fact remains that the other candidates who had applied have acquiesced to their rejection. They were rejected wrongly would not mean that the petitioner is also entitled for similar treatment. Based on the parameters prescribed in the advertisement, he clearly did not accept the rejection and has filed the present writ petition. Furthermore, the respondent cannot take the benefit of its own wrong as committed in the case of others to deny the petitioner his due rights.

9. Since the petitioner had a degree in Clinical Microbiology, his experience in analytical work was necessarily related to field of Clinical Microbiology. The petitioner had done analytical work in his field by working as a lab technician/ laboratory supervisor/ Senior Treatment Supervisor, in both the Government Sector/ PSU as well as other reputed concerns for more than 3 years (Work certificates- Annexure P-5 (Colly)). The Hon'ble Supreme Court in K. Manjusree V. State of AP and Anr., AIR 2008 SC 1470, noted in para 28 of the judgement as follows:-

" In Maharashtra State Road Transport Corporation Vs. Rajender Bhimrao Mandve, (2002) ILLJ 819 SC, this Court observed that "the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced." In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game has been played and the results of the game were being awaited. That is unacceptable and impermissible.

10. In view of my discussion hereinabove and the reasoning contained therein, the writ petition is allowed. Respondents are directed to consider the

same clearly states that the candidate has to have analytical work experience which since he possessses in view of his experience certificates (Annexure P-5 Colly) and by giving crediance to the same, consider his case in accordance with his merit in SC(M&B) category. The respondents shall pass appropriate orders qua his appointments subject of course to any vacancy being available in his category i.e SC/ (M&B).

11. Let the needful be done within the period of three months from the date of the certified copy.

22.08.2019
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No