

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 11.01.2019

+ **W.P.(C) 839/2018 & CM No. 8143/2018**

VIBHAS KUMAR JHA

..... Petitioner

versus

DELHI HIGH COURT LEGAL SERVICE

COMMITTEE

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Pawan Kumar, Advocate alongwith petitioner in person.

For the Respondent: Mr. Rajshekhar Rao and Mr. Karthik Sundar.

CORAM

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner is a practicing advocate. He has filed the present petition impugning the selection of legal practitioners for empanelment with the respondent (hereafter 'the Committee') on the panel of jail visiting advocates and panel of advocates (criminal).

2. The petitioner had applied for being empanelled as a lawyer on the panel of jail visiting advocates (hereafter 'the Jail Visiting Panel') pursuant to the notice inviting applications issued on 18.02.2016. The petitioner is, essentially, aggrieved by not being selected for

empanelment.

3. The petitioner has challenged the selection of candidates, essentially, on three fronts. First, he submits that several candidates have been selected for empanelment although they were not called for interview at the initial stages. He contends that their applications were entertained subsequent to the last date for filing applications.

4. Second, the petitioner claims that three candidates have been selected without participating in the interview held for such selection. Further, two of such candidates have been selected despite not having the experience as required under Regulation 8(3) of the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010.

5. Third, the petitioner claims that four candidates who had not applied for being empanelled on the Jail Visiting Panel, had been considered and selected.

6. Before proceeding further, it would also be necessary to mention that the petitioner had made certain allegations of manipulation of results. At the outset, learned counsel appearing for the petitioner sought to withdraw certain allegations of manipulation of the results and has confined the present petition to challenging the selection as arbitrary, unreasonable and contrary to the scheme of selection.

7. The Delhi State Legal Services Authority has been constituted under the Legal Services Authorities Act, 1987. In terms of Regulation 8(3) of the High Court Legal Services Committee

Regulations, 1998 (Delhi), the Committee is required to maintain a panel of advocates and senior advocates practicing in the High Court of Delhi for providing legal advice/services.

8. The Committee maintains separate panel of advocates for handling civil and criminal cases. It also maintains the separate panel for jail visiting advocates (the Jail Visiting Panel). The Committee states that at a meeting held on 28.01.2016, a decision was taken to empanel advocates on various panels including panel of lawyers (criminal) (hereafter 'the Criminal Panel') and Jail Visiting Panel. Accordingly, in the month of February, applications were invited from eligible advocates.

9. It is stated that pursuant to the aforesaid notice, certain applications were received. However, the selection process could not be completed within a reasonable time. Thereafter, in April, 2017, the Committee once again invited applications from eligible candidates for empanelment on the Criminal Panel and Jail Visiting Panel (civil). In addition applications were invited for empanelment of civil advocates as well mediators. The last date for submission of complete applications was fixed as 09.05.2017.

10. Pursuant to the aforesaid notice, in all, nine hundred and six applications were received (including applications from eligible candidates that had been received in February, 2016). Out of the aforesaid applications, five hundred and eighty four candidates had applied for being empanelled on the panel of lawyers for handling criminal cases and three hundred and twenty two candidates had

applied for being empanelled on the Jail Visiting Panel. The applications were scrutinized and a total of four hundred and thirty eight candidates (one hundred and ninety five for Criminal Panel and two hundred and forty three for Jail Visiting Panel) were shortlisted.

11. Thereafter, candidates were called for interview. Two separate interview boards were constituted for interviewing and evaluating the candidates for the two panels, respectively. The interview board constituted for interviewing candidates to be empanelled on the Criminal Panel comprised of Hon'ble Mr Justice R. K. Gauba and Ms Rebecca M. John, senior advocate, and the Board constituted for interviewing candidates for Jail Visiting Panel comprised of Hon'ble Mr Justice S. P. Garg and Mr Sumeet Verma, advocate.

12. It is not disputed that initially twenty-five candidates (seventeen for Criminal panel and eight for Jail Visiting Panel) were shortlisted but not called for interview. This was pursuant to a decision taken by the Committee on 17.05.2017 to exempt the advocates on the extant panel, who had performed satisfactorily, from appearing for the interviews.

13. However, while the interview process was on, a decision was taken by the Committee to also call those advocates for an interview who had been exempted from appearing in the interview round as per the earlier decision. The petitioner's claim, that these candidates were called despite not applying within the stipulated period, is founded on a factually erroneous assumption. Thus, the grievance, that these candidates had not applied but had been called for interview, is

unmerited. The petitioner himself has given the application numbers of the applications submitted by these candidates.

14. The Committee has explained that only three candidates were exempt from appearing in the interview round for being empanelled on the Criminal Panel (Mr C. K. Chaturvedi, Mr P. K. Saxena and Mr Sumeet Verma). These specific cases have been considered separately. Mr C. K. Chaturvedi and Mr P. K. Saxena were Judicial Officers of the rank of Additional District and Sessions Judge and keeping their standing and experience in mind, the Committee had decided to exempt them from the interview process as the same would be a mere formality. This Court finds no infirmity with the said decision. Clearly, the object of an interview round is to ascertain the suitability of the candidates for being empanelled. In these cases, the extensive experience and standing was considered sufficient to ascertain their suitability for empanelment. Indisputably, the Committee retains the discretion to empanel lawyers and a decision to exempt certain candidates for sufficient and cogent reason cannot be considered as arbitrary or unreasonable.

15. Mr Sumeet Verma, advocate was also exempted from the interview round given his past experience and more particularly, since he was also part of the interview board for conducting the interviews for empanelment of the lawyers for the Jail Visiting Panel. It is stated by the Committee that Mr Sumeet Verma has an excellent track record and a long standing as a legal aid counsel. He was appointed as the in-charge of legal aid, criminal side by the Committee on

03.07.2008 and again on 09.01.2009. The Committee had found that he had discharged his duties diligently, and keeping in view his experience, Mr Sumeet Verma was also appointed on the interview board to conduct interview of candidates for the Jail Visiting Panel. In the circumstances, the Committee considered it unnecessary to interview him for being empanelled on the Criminal Panel.

16. This Court finds no infirmity with the aforesaid decision. As stated herein before, the Committee has the discretion to exempt certain candidates from the interview process. The exercise of such discretion in the given cases can, by no stretch, be questioned as arbitrary or unreasonable.

17. The Committee is charged with the function of maintaining a panel of lawyers for providing legal advice. The selection process is required to be meaningful. Clearly, there would be no reason to hold interviews where the same are a mere formality. The Committee in its discretion had decided to exempt three candidates from the interview process on account of their professional standing and this Court finds no reason for questioning the said decision. Exempting such candidates from the interview process does not, in any manner, vitiate the integrity of the selection process.

18. The next issue to be examined is the petitioner's allegation that candidates having less than three years experience have been empanelled. This grievance relates to selection of former Judicial Officers of the rank of an Additional District and Sessions Judge. The petitioner claims that their selection is contrary to Regulation 8(3) of

the National Legal Services Authority (Free and Competent Legal Services) Regulations, 2010 as the said candidates did not have three years experience at the bar.

19. This Court finds no merit in the aforesaid contention as well. It would be relevant to refer to Regulation 8(3) of the aforesaid Regulation, which is set out below:-

“8. Selection of legal practitioners as panel lawyers.-

XXXX

XXXX

XXXX

- (3) no legal practitioner having less than three years' experience at the Bar shall ordinarily be empanelled.”

20. A plain language of the aforesaid Regulation clearly indicates that the experience of three years at the bar is not mandatory. The word ‘ordinarily’ clearly indicates that in certain cases, a legal practitioner having less than three years experience at the bar may also be empanelled. Although, former Judicial Officers may not have the experience at the bar but it cannot be disputed that they have sufficient experience, which would establish their competence and suitability to be empanelled for providing legal services. The petitioner’s contention in this regard is wholly bereft of any merit.

21. The next controversy to be examined relates to the petitioner’s grievance of appointment of candidates who had applied for Criminal Panel, on Jail Visiting Panel.

22. This grievance relates to four candidates who had applied for empanelment on the Criminal Panel but were empanelled on the Jail

Visiting Panel. In this regard, the affidavit filed on behalf of the Committee indicates that the four candidates (who were already on the then existing Jail Visiting Panel) had applied for being empanelled for handling criminal cases but had not been shortlisted. In the circumstances, they made a representation for being considered for empanelment on the Jail Visiting Panel. The representation of these candidates were considered by the Committee on 15.09.2017 and it was decided to call the said candidates for an interview on 12.10.2017 as the interview process for empanelling lawyers on the Jail Visiting Panel was still underway and interviews were being conducted by the interview board. Out of the four candidates, three candidates were selected for empanelment.

23. The petitioner has referred to the notice dated 26.04.2017 issued by the Committee inviting applications for empanelment, and has drawn the attention of this Court to clause 4 of said notice, which is set out below:-

“A. HOW TO APPLY

XXXX XXXX XXXX XXXX

4. A candidate shall submit only one application and he/she will be considered for empanelment to one panel only.”

24. The petitioner submits that since the said candidates had applied only for being empanelled on the Criminal Panel, they could not be considered for being empanelled on the Jail Visiting Panel.

25. The aforesaid contention is merited. The notice inviting

applications had expressly stipulated that a candidate would be considered for empanelment to one panel only. Thus, a candidate who had applied for being empanelled for handling criminal cases (Criminal Panel) could not be considered for any other panel. The action of the Committee in considering these candidates runs contrary to the terms of its notice.

26. Having stated above, this Court is of the view that no relief in this regard can be granted to the petitioner. The petitioner cannot be empanelled on the Jail Visiting Panel; the only consequence that follows is that the selection of all the three candidates for empanelment on the jail visiting panel is liable to be quashed. However, this Court does not consider it apposite to grant any such orders since the said candidates are not parties to the present petition, and it would not be apposite to pass any adverse orders to their interest in these proceedings. More importantly, the petitioner's challenge is to the entire process of selection, which as indicated above, is not sustainable.

27. The petition is, accordingly, dismissed. The pending application stands disposed of.

VIBHU BAKHRU, J

JANUARY 11, 2019
MK