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

Date of Decision: 13.02.2020

+ W.P.(C) 1128/2018

MAHENDER SINGH SEKHAWAT Petitioner
Through: Mr. K.C. Aggarwal, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr. Ripu Daman Bhardwaj, CGSC
with Mr. T.P. Singh, Adv. for UOI
Mr. Gaurav Rohilla, Adv. for R-3
Mr. Naresh Kaushik, Mr. Nitin Kumar &
Mr. Tapasvi Raj, Adv. for R-4
Mr. Nilesh Wagh, SSO-II (Respondent No.7) in
person
Mr. John George Moses, Principal Scientific
Officer for CBI

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This writ petition has been preferred with the following prayers:

“(I). Issue writ a writ in the nature of quo warranto or any other writ or direction thereby:

a) To quash and set aside the selection dated 18.09.2013 of respondent No.7 Nilesh B Wagh SSO-II Lie Detection CFSL CBI vide annexure P-14.

- b) To quash and set aside the recommendation letter dated 27.05.2013 (ANNEXURE-P-13) issued by Respondent No.4 the UPSC in respect of the Respondent No.7 Shri Nilesh B Wagh;*
- c) To quash and set aside the Office Order / Memorandum dated 22.10.2013 (Annexure-P/15) issued by Respondent No.3. The Director, CFSL, CBI in favour of the Respondent No.7 Shri Nilesh B Wagh;*
- d) To quash and set aside the formal order dated 22.10.2013 issued by Respondent No.3 {part of ANNEXURE-P-15 (COLLY.)} regarding joining of Respondent No.7 Shri Nilesh B Wagh;*
- e) To quash and set aside any other order, memorandum, or office note that might have been issued including work allocation order in favour of or in respect of Respondent No.7 Shri Nilesh B Wagh touching upon or accepting or allowing him to continue on the post of Senior scientific Officer or by whatever name called on any other equivalent post.*

(II). Issue a writ in the nature of certiorari or prohibition or any other appropriate writ or order or direction thereby to oust the Respondent No.7 Shri Nilesh B Wagh from the post of Senior Scientific Officer in the CFSL, CBI or any other post by whatever name called and to restrain the Respondent No.7 Shri Nilesh B Wagh from discharging public functions, rights and duties of the office in question.

(III). Issue a writ in the nature of certiorari or prohibition or any other appropriate writ or order or direction thereby directing the competent agencies to take action against Respondent No.7 Shri Nilesh B Wagh and his associates as per law and submit an action taken report before this Hon'ble court.

(IV). Issue an appropriate order and direction thereby directing the respondents no 1 to 4 to recover the entire amount of salary and other benefits received by respondent

no.7 since 03-10-2013 till date to make the loss good to the concerned department.

(V). Pass such further orders against the respondents as may be deemed just and appropriate in the facts and circumstances of the case.”

2. Having heard the counsel for both sides and looking to the facts and circumstances of the case, it appears that this petitioner is in search of *quo warranto* against respondent No.7 who allegedly does not have requisite qualifications for holding the post of Senior Scientific Officer – Grade-II (Lie Detector).

3. Respondent No.3 has filed a short/compliance affidavit stating therein that the respondent No.7 is possessing all the requisite qualifications and experience, prescribed for the post of Senior Scientific Officer – Grade-II (Lie Detector). Paragraphs 6 and 7 of the affidavit filed by the respondent No.3 read as under:

“6. I say that CFSL requires Sr. Scientific Officer Grade-II and the requirement was duly submitted with the Union Public Service Commission (UPSC), who issued Advertisement No. 16/2001. In response to the said Advertisement, the respondent No.7 had applied for the post of Sr. Scientific Officer Grade II (Lie Detector) after due formalities the respondent No.7 was selected for the said post. A communication vide letter dated 27.5.2013 was forwarded by UPSC to the Director, CFSL whereby two candidates were recommended for the post of Sr. Scientific Officer Grade II (Lie Detector) in CFSL, CBI. A copy of the said recommendation letter dated 27.05.2013 with its enclosures is annexed as Annexure-R-3/A Colly).

7. That it is clearly mentioned in the recommendation letter dated 27.05.2013 of the UPSC that the original

Degree/Diploma/Experience etc. certificates may kindly be verified by the Ministry before appointment. In pursuant to the same, all the experience certificates/documents were got verified by the concerned institutions, who had issued the certificates. True copies of the letters from various institutions regarding confirmation of having issued the certificates to the respondent No.7 are annexed herewith as Annexure-R-3/B(Colly). ”

4. Looking to the paras 6 and 7 of the counter affidavit filed by Director, Central Forensic Science Laboratory, Central Bureau of Investigation, New Delhi, it appears that in pursuance of advertisement issued by the Union Public Service Commission (UPSC) being Advertisement No.16/2011 the applications were invited for the post of Senior Scientific Officer – Grade-II (Lie Detector).

5. Qualifications for holding the post in question reads as under:

“Qualification: Essential: (i) Master's Degree in Criminology or Psychology from a recognized University or equivalent. (ii) Three years experience in Applied Psychology or Criminology/Crime Investigation.

6. In pursuance of the aforesaid public advertisement issued by the UPSC, the respondent No.7 was ultimately selected for the said post.

7. In view of the aforesaid affidavit, the requisite qualification of the respondent No.7 was verified by the respondents. Similarly, certificates/documents of experience were also verified by the respondents and found true and genuine. Thus, the respondent No. 7 is possessing the requisite qualification/experience for holding the post of Senior Scientific Officer – Grade-II (Lie Detector). Much has been argued out by the counsel

for the petitioner that the proper verification of the documents of the respondent No.7 were not carried out by the respondent authority especially with regard to experience and the same are forged documents. We are not going into the details of alleged forgery. Suffice it is to say that the documents of respondent No.7 were duly verified by the respondent Nos.1 to 6 and found true/genuine. Thus, respondent No.7 is possessing the requisite qualification and necessary experience for holding the post of Senior Scientific Officer – Grade-II (Lie Detector). Therefore, there is no substance in this writ petition for issuing writ of quo warranto against respondent No. 7.

8. With the aforesaid observations, this writ petition is hereby dismissed.

CM No. 4751/2018

9. In view of the final order passed in WP(C) 1128/2018, the application stands disposed of as infructuous.

CHIEF JUSTICE

C.HARI SHANKAR, J

FEBRUARY 13, 2020

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