

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

8 WRIT PETITION NO.4948 OF 2020

**SANTOSH PRALHAD SONKAMBLE
VERSUS
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION
COMPANY LIMITED AND ANOTHER**

...

Mr A. S. Deshpande, Advocate for petitioner;
Mr A. S. Bajaj, Advocate for respondent No.1

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 20th December, 2021

PER COURT:

1. Despite service of notice, respondent No.2, who is said to have been appointed through the impugned selection process, has not entered an appearance before the Court in any form.
2. By this petition, the petitioner has put forth prayer clauses (B), (C) and (D), which read as under :-

“B) The action / decision to eliminate the candidature of the petitioner from the selection process to the post of Deputy Executive Engineer on the ground that, the experience in power distribution possessed by the petitioner is of outsourcing, may kindly be held to be unjust and illegal.

(2)

C) The respondent No. 1 may kindly be directed to conduct the interview of the petitioner alongwith respondent No. 2 afresh for the post of Deputy Executive Engineer, in terms of the advertisement of Exh. 'A' bearing No. 7 of 2018, by quashing and setting aside the appointment made of respondent No. 2 against the sole vacancy earmarked for S. C. category.

D) By way of interim relief, the respondent No. 1 may kindly be directed not to decline candidature of the petitioner for the post of Deputy Executive Engineer notified vide Exh. 'E' under Advertisement No. 4 of 2020 on the ground that, the experience possessed by the petitioner in power distribution is of outsourcing."

3. Prayer Clauses (C) and (D) are rendered infructuous since the selection process has already been completed and respondent No.2 is the selected candidate, who has been appointed and who has joined duties in April-May 2018.

4. Shri. Bajaj, the learned Advocate representing respondent No.1 relied upon the affidavit-in-reply filed by Shri. Amit Kulbhushan Ratan, Senior Manager (H.R.), MSEDCL, Aurangabad, dated 12/10/2021, to contend that the advertisement mandates experience of three years in Power Distribution so as to be eligible for being considered for appointment on the post of Deputy Executive Engineer (Distribution).

(3)

5. The petitioner claims to have been working with an organization known as TeamLease Services Ltd. and was Deputed with REC Power Distribution Company Ltd. His employer TeamLease Services Ltd. has issued him an experience certificate dated 01/03/2018, indicating his deployment as 'Site Engineer' with the REC Power Distribution Company Ltd. from 28/03/2012 to 23/12/2013. Another experience certificate dated 03/05/2017, indicates his continuance on the same position from 01/01/2014 to 27/03/2017. The said company had shifted from Pune to Bangalore in between 2013 and 2014. The grievance of respondent No.1 is that when the petitioner was demanded an experience certificate from REC Power Distribution Company Ltd., he failed to produce such certificate.

6. We find that the contentions of the learned Advocate for the petitioner, Shri. Deshpande, are well placed. The advertisement expected a candidate, for the post of Deputy Executive Engineer (Distribution), to have the qualification of Bachelor Degree in Electric Engineering, with regard to which there is no dispute between the parties. The advertisement, to the extent of the experience, prescribed that the candidate should have three years experience in Power Distribution.

(4)

7. The issue before us is that, when the petitioner is admittedly an employee of TeamLease Services Ltd and the experience certificates dated 01/03/2018 and 03/05/2017 indicate that he was working as a 'Site Engineer' at the location of REC Power Distribution Company Ltd, whether another certificate is necessary from REC. His employer has issued the two experience certificates which indicate that the petitioner has put in more than three years in Power Distribution. We find it to be farfetched for respondent No.1 in expecting or directing either the petitioner or his employer to produce an additional experience certificate from REC Power Distribution Company Ltd. which had outsourced the said activity to TeamLease Services Ltd. When the advertisement demanded experience of three years in Power Distribution after acquiring necessary qualification, the certificate issued by the employer has presumptive value and should be believed unless there are circumstances, as an exceptional case, to indicate that the employer had issued a false certificate.

8. In view of the above, this petition is partly allowed.

(5)

9. The only legal tangle is that respondent No.2 has already been appointed in April-May 2018 and in all probability, may have completed his probation period. Nevertheless, the petitioner has again applied to respondent No.1 for the post of Deputy Executive Engineer (Distribution).

10. As such, it would be appropriate for us to direct respondent No.1 to rely on the experience certificates dated 01/03/2018 and 03/05/2017 issued by the earlier employer of the petitioner, while considering his candidature for the said position, pursuant to the advertisement No.04-2020, at annexure 'F', on page No. 27 of the petition paper-book.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

sjk