



\$~33

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 26th July, 2022

+

W.P.(C) 11116/2022 & CM APPL. 32625/2022

NEELMANI JAISWAL

..... Petitioner

Versus

UNION PUBLIC SERVICE COMMISSION
AND ORS

...Respondents

Advocates who appeared in this case:

For the Petitioner:

Ms. Mannu Singh and Mr. Mukul Sinha, Advocates.

For the Respondent:

Mr. Naresh Kaushik, Advocate for the UPSC
(Through VC).Ms. Arunima Dwivedi, CGSC with Ms. Ashi
Sharma, Mr. Ved Prakash and Mr. Gokul Sharma,
Advocates for R-2 and R-3.**CORAM:-****HON'BLE MR JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****SANJEEV SACHDEVA, J (ORAL)**

1. Petitioner impugns order dated 29.03.2022, whereby the Original Application filed by the petitioner seeking quashing of the recommendation/appointment made to the post of Junior Time Scale (JTS) Grade of Central Labour Service (Group 'A' Organized Service)



consisting of the posts of Assistant Labour Commissioner (Central)/ Assistant Welfare Commissioner (central)/Assistant Labour Welfare Commissioner (Central)/ Assistant Director.

2. An advertisement was published on 26.11.2016 by the Union Public Service Commission (UPSC), inviting applications, *inter-alia*, for the above referred posts. The qualifications as prescribed by the advertisement were as under:-

“QUALIFICATIONS: ESSENTIAL: EDUCATIONAL: (i) Degree of a recognized University; (ii) Diploma in Social Work or Labour Welfare or Industrial Relations or Personnel Management or Labour Law from a recognized University or Institution.

DESIRABLE: Degree in Law from a recognized university”

3. Advertisement further provided in instructions and additional information with regard to the minimum essential qualification as under:-

“NOTE-I: *The prescribed essential qualifications are the minimum and the mere possession of the same does not entitle candidates to be called for interview.*

NOTE-II: *IN THE EVENT OF NUMBER OF APPLICATIONS, BEING LARGE COMMISSION WILL ADOPT SHORT LISTING CRITERIA TO RESTRICT THE NUMBER OF CANDIDATES TO BE CALLED FOR INTERVIEW TO A REASONABLE NUMBER BY ANY OR MORE OF THE FOLLOWING METHODS:”*



4. As per the petitioner, the minimum essential qualification was a Bachelor's Degree of a recognised University and a Diploma in Social work or Labour Welfare or Industrial Relations or Personnel Management or Labour Law from a recognized University or Institution.

5. Petitioner applied for the said post and as per the petitioner, he fulfilled the eligibility criteria and was shortlisted for taking the recruitment test and thereafter, petitioner was also shortlisted for the interview. Petitioner appeared before the Interview Board. However, the name of the petitioner did not figure in the select list.

6. Subject OA was filed by the petitioner primarily on the ground that 24, out of 33 (later on increased to 35) selected candidates did not possess the basic essential qualification i.e., a Diploma as required from a recognized University or institution. The other ground of the petitioner was that the interview Board did not comprise of a sitting Chairman or Member of the UPSC and as such, the entire proceedings have been vitiated.

7. The Tribunal rejected the contentions of the petitioner and by the impugned order dismissed the OA and held that they did not find any infirmity committed by the Commission in the selection process, shortlisting criteria adopted, allocation of marks and constitution of



interview Board and consequently the OA was dismissed as being devoid of merits.

8. Before us also, learned counsel for the petitioner has urged the above-referred two submissions and endeavour to establish that 24 out of the selected candidates did not possess the essential qualification.

9. It is contended by the learned counsel for petitioner that the basic requirement was a diploma in the specified fields, however, the 24 candidates possessed higher qualification *inter alia* Post Graduate Degrees in Management, LLB Degree, MBA in Human Resource Development, Post Graduate Diploma in Human Resource Management.

10. The Tribunal in the impugned order has noticed that a large number of applications were received and consequently the Commission had to adopt the shortlisting criteria as mentioned in the advertisement i.e., *inter alia* of selection by holding a recruitment test. The shortlisting criteria also prescribed shortlisting on the basis of higher educational qualification than the minimum prescribed in the advertisement.

11. With regard to the contention of the petitioner that 24, out of the selected candidates did not possess the requisite qualification, the Tribunal has held that all the candidates possessed much higher qualification than the minimum qualification of a diploma prescribed.



The Tribunal further found that the petitioner himself did not possess a diploma in the specified field, but possessed a Post Graduate Diploma in Personnel Management. The Tribunal has held and, in our view, rightly so, that in case submission of learned counsel for the petitioner were to be accepted as it is, then, petitioner himself did not possess the requisite qualification i.e., a diploma as he possessed a Post Graduate Diploma in the specified field.

12. The contention of the petitioner that the selected candidates do not possess the requisite qualification is not sustainable for the reason the advertisement prescribes minimum qualification and not the specified qualification. There is a difference in prescribing a specified qualification and prescribing a minimum qualification. The fact that the advertisement provides for minimum essential qualification establishes that qualification higher than the minimum essential qualification can certainly be taken into account by the selecting authority.

13. In the instant case, even as per the petitioner, all the 24 candidates out of the selected candidates possessed higher qualification i.e., Post Graduate Degree in the specified fields in contrast to a mere diploma in the specified field. It may also be noticed that the Selection Committee has further shortlisted the Post Graduate Degrees by ensuring that the candidates possessed the Post Graduate Degrees in the specified fields. As an example, it may be noticed for the purposes of an LLB Degree,



the pre-condition for shortlisting a candidate having an LLB Degree was that one of the subjects in the LLB Degree must be Labour Law, which is one of the specified fields in which diploma was required.

14. The judgment relied on by the learned counsel for petitioner of the Supreme Court in *Zahoor Ahmad Rather & Ors. Vs. Sheikh Imtiyaz Ahmad & Ors.*, (2019) 2 SCC 404 does not help the case of the petitioner for the reason in the said case, the qualification prescribed was a specified qualification i.e., an ITI certification. The selected candidates in that case were diploma holders in Electrical Engineering. The Supreme Court held that description of qualification for a post is a matter of recruitment policy. In the said case, the requirement was an ITI certification and not a diploma in Electrical Engineering/Electronics and Communication. Consequently, the Supreme Court held that equivalence of qualification is a matter for the State as recruiting authority to determine and is not for the Court to intervene and determine equivalence or higher qualification.

15. In the instant case, the requirement is not a specified qualification i.e., a diploma but the requirement is the minimum qualification of a diploma which implies that anyone holding a higher qualification than a diploma would be eligible for participation in the selection process. As noticed hereinabove, the admitted case of the petitioner is that all the 24 selected candidates hold higher qualifications, though they do not hold the diploma in the specified fields. That *per se*, would not



disqualify the 24 selected candidates.

16. Further, as noticed hereinabove and as noticed by the Tribunal, if the argument of the petitioner were to be taken on its face value, the petitioner himself would be disqualified as he himself does not possess a diploma, but holds a Post Graduate Diploma.

17. With regard to the second ground of challenge i.e., composition of the interview Board, it may be noticed that the advertisement does not prescribe any composition of the interview Board.

18. Reliance is placed by learned counsel for petitioner on the Circular No.1/2005 dated 04.01.2005 issued by the UPSC on the subject "*PROCEDURES TO BE FOLLOWED BY THE INTERVIEW BOARDS*". Relying on the said circular, learned counsel for the petitioner submits that it is mandated that the interview Board should be comprised of either the Hon'ble Chairman or one of the sitting Members.

19. The Tribunal has noticed that the UPSC in its counter affidavit before the Tribunal had taken a stand that 116 candidates were shortlisted for interview and keeping in view the number of the candidates, there were multiple interview Boards constituted for the purposes of conducting the interviews and the Chairman had to draw upon the former Members of the UPSC. In the case of the petitioner, one retired Member of the UPSC was chairing the interview Board.



20. The Circular dated 04.01.2005 prescribes that the meeting of the interview Board would be presided over by Hon'ble Chairman or Hon'ble Member nominated by him. It may further be noticed that as per the composition, apart from Member of the UPSC, there were experts, who composed the interview Board.

21. Learned counsel for the petitioner submits that in the case of petitioner there were five Members on the Board. This implies that apart from a former Member of the UPSC, who was chairing the interview Board, the Board comprised four other experts who have specialized knowledge and expertise to assess the candidates.

22. In that view of the matter, we find that there is no infirmity in the interview being conducted by a Board of experts, chaired by a former Members of the UPSC. On this count also, we find no merit in the challenge made by the petitioner to the selection process.

23. In view of the above, we find no merit in the petition. The petition is accordingly dismissed.

SANJEEV SACHDEVA, J.

TUSHAR RAO GEDELA, J.

JULY 26, 2022

NA