



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

% **Date of order : 25th August 2023**

+ **W.P.(C) 11153/2019 & CM APPL. 45936/2019**

CORPORAL SUBHASH CHANDRA

..... Petitioner

Through: (Appearance not given)

versus

**CHAIRMAN AND MANAGING DIRECTOR ONGC LTD. AND
ORS.**

..... Respondents

Through: Mr. J.P. Kama, Sr. Advocate with
Mr. Akshay Amritanshu, Mr.
Ashutosh Jain and Mr. Samyak Jain,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present writ petition has been filed on behalf of the petitioner under Article 226 of the Constitution of India, praying as follows:

“7.1 A Writ in the nature of mandamus and any other appropriate writ, orders, directions, directing the respondent No. 2 to accept the equivalent qualification as "IAF Promotion Test for the Corporal" of the petitioner for appointment to the post of Junior Fire Supervisor in respondent's organisation and allow the petitioner to participate in remaining selection process, thereby protect the fundamental right of the petitioner granted under article 16 and 21 of the constitution of India,



2. Pending decision in Writ this Hon'ble High Court may graciously direct the Respondents to keep one vacancy of Junior Fire Supervisor, reserved for the Petitioner by way of Ex-Party Ad Interim order.

Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

2. A perusal of the record reveals that the petitioner joined the Indian Air Force (hereinafter 'IAF') in the year 1999 based on his matriculation qualification and received his graduation equivalency certificate, issued by IAF, after passing all the prescribed examinations.
3. The petitioner was due for retirement on 30th December 2019 and as the retirement period approached, the petitioner was seeking re-employment options.
4. The Chairman and Managing Director of Oil and Natural Gas Corporation Limited (hereinafter respondent no.1) published an advertisement *vide* Ref. No. 8/2018 (R&P) inviting applications for 14 posts out of which 2 stood reserved for ex-servicemen with intermediary qualifications. The petitioner applied for the post of Junior Fire Supervisor with the respondent no. 1 and appeared for the examination, which he successfully cleared, securing a place on merit.
6. Subsequently, the petitioner was called for document verification whereby the intermediate certificate issued by the IAF was not accepted by the concerned officer on the grounds that the said certificate was not issued



by a school/board thereby making the petitioner unfit for remaining recruitment process.

7. The petitioner made several representations which were rejected, aggrieved by the rejections of his repeated representations, the petitioner served a legal notice dated 26th July 2019 upon the Oil and Natural Gas Corporation Limited (hereinafter 'respondent no.1'). Subsequently, the respondent vide the impugned order dated 5th September 2019 communicated the final rejection of the petitioner's case.

8. Aggrieved by the same, the petitioner preferred this writ petition.

9. Learned counsel appearing on behalf of the petitioner submitted that the act of the respondents in rejecting his representation and not letting him participate in the selection process is unjustified as the certificate issued by the IAF is recognized by the government *vide* notification ref. no. 6/1/72 Esst.(d) dated 17th August 1977 and in addition is also recognised by the National Employment Service Manual (Vol.II). It is submitted that in para XVI of the advertisement published by the respondents, there is a categorical mention that the certificate issued by the IAF will be accepted as an induction level qualification for the vacant positions.

10. Learned counsel appearing on behalf of the petitioner relied upon the case titled ***Ranbir Singh vs DSSB & Ors, W.P. (C) 2316/2000***, decided by this Court on 18th January 2002, wherein the equivalent qualifications granted by the Armed Forces has been acknowledged and allowed.

10. It is further submitted that apart from the intermediate equivalent certificate, the petitioner has higher qualifications which makes him the most



suitable candidate for the post of Junior Fire Supervisor.

11. In view of the submissions, it is submitted that the petitioner is eligible and suited to be appointed at the post of Junior Fire Supervise for which it is prayed that the equivalence certificate issued by the IAF be considered and accepted by the respondents.

13. *Per contra*, the learned senior counsel appearing on behalf of the respondents vehemently opposed the arguments advanced on behalf of the petitioner and submitted that the petition is liable to be dismissed at the outset for being based on an entirely false premise.

14. It is submitted that at the stage of document verification, the petitioner admitted that he did not possess the intermediate certificate and since that was the minimum essential qualification, the petitioner was not allowed to proceed further in the recruitment process. It is further submitted that the petitioner has tried to mislead the Court by portraying the issue as that of non-response at the end of the respondents whereas the actual issue is that no certificate was ever produced by the petitioner at the stage of document verification.

16. It is submitted that *vide* email dated 9th September 2019, all shortlisted candidates were apprised of the documents to be submitted in order to advance to the next stage of the recruitment process and in response to the same, the petitioner submitted all documents except the intermediate certificate.

17. It is further submitted that the certificate annexed by the petitioner in the present petition is dated 5th August 2018 whereas the cut off date for the



eligibility stood to be 27th December 2018. Therefore, it is submitted that the instant petition is liable to be dismissed since there is no relief which may be granted in favour of the petitioner.

18. Heard the learned counsels appearing on behalf of the parties and perused the record.

19. Briefly stated, the petitioner, after serving in the IAF for about 20 years, applied for the post of Junior Fire Service, in pursuance of the advertisement issued by the respondents. According to the said advertisement, out of the 14 posts advertised, 2 stood reserved for ex-servicemen and for the post of Junior Fire Supervisor the minimum qualification criteria was intermediary. The petitioner cleared the written examination but failed to produce an intermediate certificate recognised by a school/board, as per the requirement stipulated by the respondent, due to which he was declared ineligible and was not allowed to proceed further in the recruitment process.

20. The respondents *vide* the impugned order dated 5th September 2019 stated that the reason for the ineligibility was merely that the petitioner failed to produce the minimum qualification criteria i.e., the intermediate certificate at the stage of document verification. The respondents in the impugned order also shed light on the fact that an email was sent to all shortlisted candidates, requesting certain documents and the petitioner failed to attach the intermediate certificate in the email as well.

21. The general rule followed at the time of recruitment is that the person applying for the post in question, must possess the eligibility qualification on



the last day of applications as per the form or advertisement, unless a specific provision is laid out for non-eligibility. There is no contention that the eligibility of an individual is determined through certificates and marksheets illustrating their personal and academic achievements and it is on the basis of such achievements that the individual can avail the benefits and the secure the said position.

22. The advertisement published by the respondents clearly stated that the minimum requirement for applying for the post of Junior Fire Supervisor was intermediate. The relevant paragraph from the advertisement, which categorically mentioned the minimum essential qualification for the post of Junior Fire Supervisor is reproduced as under:

"...Intermediate with 6 months' experience in fire services. Valid Driving Licence for Heavy Vehicles essential. Driving Test on Fire Tender / Heavy Vehicle applicable. Physical standards as given below at Table 3. Physical Efficiency Test as per details given below at Table 4..."

23. A mere reading of the above mentioned requirement indicates that the individuals applying for the said post were required to have essential qualifications, intermediate certificate being the first requirement.

24. The Hon'ble Supreme Court, in a catena of judgments has analysed that requirement of a specific qualifications and the implications that should follow, in the event that the mandatory qualification criteria is not fulfilled. It has been observed in a number of judgments that possessing the requisite qualification while applying for any post is mandatory and the same should



not be uncertain. In situations where uncertain conditions are allowed, it would leave the employer flooded with applications of candidates who are ineligible.

25. The relevance of a cut-off date to submit documents as well as applications has also been analysed by the Hon'ble Supreme Court in case titled *Ashok Kumar Sonkar v. Union of India*, (2007) 4 SCC 54 wherein it was held that a cut-off date for submitting applications must be fixed in order to assess the eligibility of candidates applying for the post in question, the Courts may only intervene in the event that such date has not been set by the authority/employer inviting applications.

26. Similarly in the case of *Ashok Kumar Sharma v. Chander Shekhar*, (1997) 4 SCC 18, the Hon'ble Supreme Court has held as follows:

“6.....The proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding



*that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their applications ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority judgment. This is also the proposition affirmed in *Rekha Chaturvedi v. University of Rajasthan* [1993 Supp (3) SCC 168 : 1993 SCC (L&S) 951 : (1993) 25 ATC 234] . The reasoning in the majority opinion that by allowing the 33 respondents to appear for the interview, the recruiting authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have been allowed to appear for the interview.”*

27. In the case of **Ashok Kumar Sharma (Supra)** the Hon'ble Supreme Court highlighted the well established principle that when applications are requested to be submitted/furnished with a specific due date, the candidates' eligibility must be evaluated solely in light of that date. An individual who procures the endorsed capability ensuing to such recommended date cannot be considered by any means. A public representation is made in an advertisement or notification calling for applications, and the authority is bound by that representation and cannot act in its contravention. This proposition is based, in part, on the idea that other applicants in a similar position could have applied if it were known that those who obtained the qualifications after the deadline but before the interview date would be



allowed to appear. Moreover, every organizations/entity has the right and entitlement to set forth minimum qualifications or other conditions to ensure that only the most suited persons are appointed to the posts lying vacant with it. In doing so, it cannot be said that the rights of any prospective candidate is violated.

28. Bearing in mind the facts and scenario, this Court is of the view that the respondents have not acted in an arbitrary or unjust manner while rejecting the candidature of the petitioner since the petitioner failed to produce the intermediate certificate all together at the time of document verification and even failed to attach the same in the reply to the email sent by the respondents. Even though, the petitioner has annexed document certifying his IAF Educational Test for promotion to the rank of Corporal, which is equivalent to an intermediate certificate, the date of issue on the said certificate is 5th September 2019 when the cut off date for eligibility as per the respondents was 27th December 2018. The respondents rightly declared the petitioner ineligible since the petitioner did not meet the minimum eligibility criteria. The petitioner seemed to have missed the bus, as the documents were produced by the petitioner well after the cutoff date and the same cannot be granted preferential treatment as per the law in place.

29. In view of the above mentioned analysis, this Court deems it fit to not interfere with the decision of the respondents of not allowing the petitioner to continue the recruitment process.



30. Based on the aforementioned discussions, this writ petition is accordingly dismissed.
31. Pending applications, if any, also stand dismissed.
32. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

AUGUST 25, 2023
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