

Lal Singh Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-14-2013

Appellant : Lal Singh

Respondent : The State of Madhya Pradesh

Judgement :

WA No.1003 of 2012 WA No.1004 of 2012 WA No.1015 of 2012 WA No.1016 of 2012 WA No.1017 of 2012 WA No.1018 of 2012 WA No.1019 of 2012 WA No.1028 of 2012 WA No.1029 of 2012 WA No.1030 of 2012 WA No.1038 of 2012 WA No.1039 of 2012 WA No.1040 o

14. 5.2013.

Shri A.M.Trivedi, Sr.cousnel with Shri Sushil Kumar Mishra for the appellants.

Shri Piyush Dharmadhikari for the respondents.

This batch of appeals is arising out of common order dt.17.7.2012 passed by the writ court in WP No.5437/2006(S).WP No.11282/2006(S).WP No.13804/2005(S).WP No.15488/2005(S).WP No.15489/2005(S).WP No.15493/2005(S).WP No.15494/2005(S).WP No.15495/2005(S).WP NO.15496/2005(S) WP No.15498/2005(S).WP No.15500/2005(S).WP No.6626/2006(S).WP No.6627/2006(S).WP No.6628/2006(S) and WP No.7150/2006(S).The learned single Judge has found that the cancellation of the selection process for the post of Jail Warden, Central Jail, Rewa was fully justified

as there were serious illegalities and regularities in the selection and while affirming the order directed that in case in future any further selection process is conducted, as a one time measure petitioners may be granted exemption/age relaxation and they be permitted to participate in the process of selection and their cases may be considered.

This order has been assailed by the appellants on the following grounds:

1.

That, in the matter on 27.9.2005, a show-cause notice was issued and on 8.11.2005, the services of all the appellants were terminated vide Annexure-P/8, while on 9.11.2005 in W.P.No.13707/2005 a Single Judge of the High Court had directed that an enquiry be conducted in the matter and till then services be not terminated.

It is submitted that the termination order Annexure-P/8 is bad in law; 2.

That, on the basis of reasons the entire selection process was set aside by the respondents, was only superficial.

Merely there were no Video recording of the process, names were not called from the employment exchange, proper advertisement was not issued, could not have been a ground to cancel the entire process.

He has placed reliance to the Apex Court judgment thus : AIR 199.SC 119.(State Bank of India v.

D.C.Agrawal).AIR 199.SC 108.(Madan Lal and ors.v.State of Jammu & Kashmir and ors.).(2006) 8 SCC 19.(Union of India and ors.v.Bikash Kuanar) and (2010) 11 SCC 67.(Union of India and ors.v.Pritilata Nanda) .

It is submitted that the appeals may be admitted for final hearing.

Shri Piyush Dharmadhikari, learned counsel appearing for the State supported the order and submitted that in fact in the enquiry, various illegalities were found in the selection process and authorities after issuing show-cause notice had rightly

cancelled the entire selection process.

To appreciate the rival contentions of the parties, it would be proper if the factual position in the present case is stated.

The dispute is in respect of appointment on the post of Jail Warden at central Jail, Rewa.

The recruitments were to be made, in accordance with the provisions as contained in M.P.Class-III (Non- Ministerial and Ministerial) Jail Service Recruitment Rules, 1974.

As per the decision taken by the State Government, backlog vacancies of Scheduled Castes/Scheduled Tribes candidates were to be filled up.

A committee was constituted consisting of the Superintendent, Central Jail Rewa as Chairman and two members namely Superintendent, Central Jail, Jablapur and Jailer, Central Jail, Rewa to consider the candidature case of all the applicants.

It is also stated that an advertisement was issued and the applicants who had applied for, in pursuance of advertisement, they were called for interview and selection process was conducted.

Thereafter the appellants were appointed on the post of Jail Warden.

After the appointments, certain complaints were made with regard to the appointments made and the procedure followed.

So an enquiry was directed into the matter and on the basis of the enquiry conducted by the Superintendent, Jails a show-cause notice Annexure-P/11 was issued to the appellants.

The matter was challenged in W.P.No.12981/05(S) by Shri Lal Singh and on 27.10.2005 certain directions were issued by the High Court.

In pursuance to the directions issued by the High Court, the Chief Secretary appointed Smt.

Seema Sharma, Additional Secretary in the GAD Department to conduct an enquiry.

As per the enquiry report submitted by Smt.

Seema Sharma dt.16.1.2006, she had found illegalities and irregularities in the selection process.

Smt.

Seema Sharma had extended an opportunity to all the appellants during the enquiry.

On the basis of the enquiry report an action was taken and entire selection process was cancelled and the services of the appellants were terminated.

The termination order was challenged before the Writ Court.

The learned single Judge sought reply of the respondents and after hearing both the parties has found that in the enquiry report, following illegalities were found: a) that in the matter of conducting the recruitment process for filling up of back log vacancies of SC/ ST candidates necessary Circulars.instructions issued by the State Government from time to time was not followed.

b) that in conducting the selection process physical test and other physical exercises were not properly conducted and video recording as required under the Circular was not adhere to, as a result the procedure was defective.

c) that the applicants/ petitioners in each of the case had submitted an application and it was stated by them that they had submitted their application in pursuance to the advertisement issued vide Annexure P/8 but neither any such advertisement was available in the original file and not any payment was made for its publication.

On a specific query made to each of the petitioners none of them was able to point out to the Enquiry Officer as to how and in what newspaper advertisement was published.

d) that in most of the applications there was no reference to the advertisement while submitting the applications.

On the contrary it is indicated in the application of all the petitioners that from reliable source they have come to know that certain recruitment process are going on.

e) that advertisement was not at all issued and it is only a photocopy of computer print out to show that some advertisement was issued and only produced before the enquiry officer.

f) that if such an advertisement was issued then communications with the press for such an advertisement or at least with the Joint Director, Public Relations and Publication, Government of M.P., would have been made and there is no proof of any such communication being made or payment made.

g) that even though there is a letter addressed to the General Director, Public Relations and Publication, Government of M.P., Vallabh Bhawan, Bhopal with regard to the recruitment process but the original letter itself dated 16.7.2004 is available on record and it has not been dispatched.

h) that in the selection process conducted even though on the date of selection in the register available in file No.8, 16 candidates are shown to have appeared in the process of selection but the attendance and signature of only 7 candidates are available and signature and attendance of 9 candidates are not available.

Various irregularities have been deducted apart from the aforesaid in the enquiry report.

Learned Single Judge also found that though it was a recruitment for filling up backlog post for SC/ST employees, but, one person belonging to general category namely; Manot Mishra was appointed.

Except Manot Mishra, all other candidates were from other divisions other than Rewa.

No Videography of the recruitment process was made.

There was no proper communication for the interview.

There was no advertisement in the papers for recruitment.

One advertisement was prepared, but, it was only in the file and the advertisement was never issued for the knowledge of all the concerned.

Considering the aforesaid glaring illegalities in the selection process, learned single Judge has found that the action of respondents was fully justified in cancelling the selection process and dismissed all the writ petitions.

From perusal of the aforesaid, it is apparent that in fact there was no selection process and only formalities on papers were done.

Even the names were not called from the employment exchange.

There was no publication of the vacancies, in absence of which, the committee which was assigned the job, it appears to have selected some persons because of some unknown reasons.

However, the selection process itself was found to be illegal, so the entire selection was cancelled, services were terminated.

In the said order, no fault is found.

Learned single Judge considered the matter at length, rightly dismissed the writ petitions and while dismissing the writ petitions, directed that if some selection process is conducted in future, all the petitioners be given an opportunity to participate in the process and for one time they may be granted age relaxation/exemption and to permit them to participate in the selection process.

The aforesaid order appears to be just and proper and in the facts and circumstances, there is justification in the said direction.

In view of the aforesaid, we do not find any merits in these appeals.

These appeals are dismissed, however, the directions issued by learned single Judge be duly complied with.

If no selection process has been initiated till date, the respondents shall initiate the selection process as early as possible.

No order as to costs.

(Krishn Kumar Lahoti) (M.A.Siddiqui) Acting Chief Justice Judge Khan*

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