

Jitendra Kumar Shukla Vs. General Manager (i.R.)w.C.F.Ltd.

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Court : Madhya Pradesh

Decided On : Feb-27-2013

Appellant : Jitendra Kumar Shukla

Respondent : General Manager (i.R.)w.C.F.Ltd.

Judgement :

HIGH COURT OF MADHYA PRADESH PRINCIPAL SEAT AT JABALPUR Writ Petition No.12562/2006 Jitendra Kumar Shukla Vs. General Manager (I.R.), Western Coal Field Limited. Counsel for the petitioner : Mr. R.K. Samaiya, Advocate. Counsel for the respondents : Mr. Anoop Nair, Advocate. Present : Honble Mr. Justice Alok Aradhe

ORDER

(26.02.2013) In this writ petition, the petitioner inter-alia seeks a direction to the respondents to permit the petitioner to participate in written examination as well as in the interview for recruitment on the post of Mining Sirdar. The petitioner has also prayed for a direction to debar the respondents No.3 to 5 from appearing in the written examination for recruitment to the post of Mining Sirdar and in case of their appointment on the said post, to quash their appointment.

2. The facts leading to filing of the writ petition, briefly stated are that an advertisement was published in 'Rojgar Samachar', in December 2005, by which applications were invited for appointment on the post of Mining Sirdars. The

petitioner as well as the respondents No.3 to 5 submitted their applications. However, the petitioner was not allowed to appear 2 Writ Petition No.12562/2006 (s) in the aforesaid examination on the ground that he does not have the requisite experience. It is the case of the petitioner that even though, the respondents No.3 to 5 did not have the requisite experience, yet they were allowed to appear in the written examination, which was held on 30 t h July, 2006 and in the interview. In the aforesaid factual backdrop, the petitioner has approached this Court.

3. Learned counsel for the petitioner while inviting the attention of this Court to the Regulation 18 of the Coal Mines Regulations, 1957, submitted that even though, in the advertisement, requirement of four years of experience of working in the mines was prescribed yet the Regulation 18 provides that the candidates must have three years of experience of working in coal mines. While inviting the attention of this Court to the experience certificates which have been cumulative marked as Annexure P/8, it was submitted that the petitioner had 4 years, 6 months and 20 days experience of working in the mines, yet he was deprived of his legitimate claim to appear in the examination. It is further submitted that the respondent No.3, 4 and 5 did not have requisite experience but they were allowed to appear in the written examination. It is further submitted that the petitioner has been deprived of fundamental right to apply in respect of employment and for consideration of his candidature in an arbitrary manner by the respondents. In support of his submissions, learned counsel for the petitioner has placed reliance on the decision in the case of 3 Writ Petition No.12562/2006 (s) Krishan Chander Nayar Vs. The Chairman, Central Tractor Organisation and others, AIR 196.SC 602.

4. On the other hand, learned counsel for the respondents has produced the relevant records of the petitioner as well as the respondents No.3 to 5 for perusal of this Court and while inviting the attention of this Court to the advertisement Annexure P/1 submitted that one of the eligibility conditions prescribed in the advertisement is that the candidates must have experience of working in Western Coal Fields Ltd., for a period of 4 years. From perusal of Annexure P/8, it is apparent that the petitioner has worked in the mines of Western Coal Fields Ltd. for a period of 3 years, 2 months and 28 days. Since the petitioner did not have

the requisite experience, as has been prescribed in the advertisement, therefore, he was not permitted to appear in the written examination, which was held on 30 t h July, 2006. It is further submitted that the petitioner has not filed any documents to show that the respondents No.3 to 5 did not have the requisite experience prescribed in the advertisement. It was further pointed out that from perusal of record, it is evident that the respondents No.3 to 5 were eligible to appear in the written examination.

5. I have considered the respective submissions made by learned counsel for the parties. From perusal of the advertisement Annexure P/1, it is apparent that one of the eligibility criteria prescribed for appearing in the written examination, is that the candidate must have 4 years of working 4 Writ Petition No.12562/2006 (s) experience in Western Coal Fields. From the perusal of the experience certificates which have been cumulatively marked as Annexure P/8, it is apparent that the petitioner has experience of working in Western Coal Field for a period of 3 years, 2 months and 28 days. From the records which have been produced by the respondents it is evident that respondents No.3 to 5 have the requisite experience of 4 years. Since the petitioner did not have the work experience as prescribed in the advertisement therefore, the respondents have rightly not allowed the petitioner to participate in the written examination, which held on 30 t h July, 2006. So far as the contention of learned counsel for the petitioner that the eligibility criteria, which is mentioned in the advertisement is contrary to the Regulation 18 of the Coal Mines Regulation, 1957 is concerned, the same need not be examined as the petitioner has neither pleaded in the writ petition that the criteria prescribed in the advertisement is contrary to the Regulation 18 not has challenged the condition prescribed in the advertisement on the ground that the same is contrary to the Regulation 18 of the Coal Mines Regulations, 1957.

6. In view of preceding analysis, I do not find any merit in the petition. The same fails and is hereby dismissed. (Alok Aradhe) Judge RC