

Gori Madan Vs. the District and Sessions Judge and ors.

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Court : Delhi

Decided On : Feb-28-2011

Judge : Pradeep Nandrajog; Suresh Kait, Jj.

Appeal No. : W.P.(C) 116/2001

Appellant : Gori Madan

Respondent : The District and Sessions Judge and ors.

Advocate for Def. : Mr.Vivek Tandon And Ors.

Advocate for Pet/Ap. : Mr.N.L.Bareja, Adv.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

1. It was the year 1999. In the Office of the District & Sessions Judge Delhi 2 posts of Assistant Librarian and Information Officers were required to be filled up on ad-hoc basis. The reason was that the posts were newly created and the Recruitment Rules had yet to be notified.

2. Vide circular dated 22.2.1999, applications were invited from the officials working in the Office of the District & Sessions Judge Delhi for filling up 2 posts of

Assistant Librarian and Information Officers on purely ad-hoc basis. It was indicated that officials having experience in the line will be given preference. It was indicated that the pay-scale of the post in question is `6,500-10,500/-. It was further indicated that officers who were willing to be considered and had rendered minimum 10 years regular service in the department may submit their applications by 26.2.1999.

3. It may be noted that since applications were invited only from the officers working in the Office of the District & Sessions Judge Delhi, i.e., selection was in-house, it was not stated in the circular that applications should be received through proper channel.

4. Respondent No.4 and 5, Sh.Jagdish Bhardwaj and Smt.Neelam Pandey, were 2 out of the 20 candidates who had submitted applications in response to the office circular noted hereinabove. Whereas all officers who had applied forwarded their applications through the respective Judge under whom they were working, Jagdish Bhardwaj directly submitted his application on 26.2.1999, for the reason he was working as a reader in the Court of Ms.Manju Goel ADJ (as her Ladyship then was) and she was on leave on said day, which happened to be the last day for submitting the application.

5. A Committee consisting of Sh.O.P.Dwivedi Additional District and Sessions Judge (as his Lordship then was), Sh.J.P.Singh ADJ (as his Lordship then was) and Ms.Manju Goel ADJ (as her Ladyship then was), held interviews on 27.2.1999 and also considered the technical educational qualifications of the candidates and their service record. They drew up the Minutes dated 27.2.1999 noting therein that of the 20 applicants who had applied, only 17 had appeared at the interview.

6. It stands recorded in the Minutes that in the absence of the notified Recruitment Rules it was noted that in the libraries established by the Government of India, the library staff constitutes a separate cadre as the posts are specialized. It was noted that attached to the Office of the District & Sessions Judge Delhi no such cadre existed. It was noted that the applicants had worked in the Ministerial Cadre in the District Courts in Delhi. In the absence of any notified Recruitment Rules, as recorded in the Minutes, Committee decided that it would follow the selection

criteria as applicable to the posts of Assistant Librarian and Information Officers under the Government of India.

7. Considering the performance of the 17 candidates who had appeared at the interview and with reference to their service record, applying the selection criteria 'seniority-cum-merit', the select panel recommended the names of respondents No.4 and 5 to be appointed on ad-hoc basis as Assistant Librarians and Information Officers.

8. Petitioner filed a departmental appeal raising 4 contentions and in a considered order, the departmental appeal was rejected on 8.8.2000 resulting in the instant petition being filed, questioning the selection of R-4 and R-5.

9. It may be noted that during pendency of the writ petition, with reference to another vacancy occasioned, vide order dated 10.10.2001, petitioner was also appointed on ad-hoc basis as an Assistant Librarian and Information Officer. Thus, claim if any would be for ad-hoc appointment from a retrospective date i.e. the date wherefrom R-4 and R-5 were so appointed i.e. 4.3.1999.

10. The 4 contentions which the petitioner had raised before the Appellate Authority have been urged before us, but with a slight difference. The first contention urged was to the constitution of the Selection Committee by urging that R-4 was a reader in the Court of Ms.Manju Goel and sometimes in the past R-5 had worked in the Court of Sh.J.P.Singh. It was apparent that the plea is of a reasonable apprehension of bias.

11. We note that R-4 and R-5 are senior in service to the petitioner and all of them possessed the necessary qualifications.

12. The learned Appellate Authority has opined, and in our opinion rightly so, that both learned Judges, who went on to be later on elevated to this Court were senior Judges of the Higher Judicial Service Delhi and it was expected that they would decide unbiased. The additional reason given by the Appellate Authority is, with which we agree, that if such pleas are accepted, it would be impossible to constitute a Selection Committee for the reason one or the other officer working in

the Courts and who is an applicant, would at some point of time be working directly or indirectly under a particular judicial officer who would be a Member of the Selection Committee.

13. The second point urged was that the petitioner had an experience of working in the Judges' Library at Tis Hazari where she had been deputed on 6.1.1982. It was highlighted that in the circular inviting applications it was mentioned that officers having experience in the line will be given preference. It was highlighted that R-4 and R-5 did not have experience of working in a Library.

14. The learned Appellate Authority has held that in the absence of any notified Recruitment Rules, the criteria adopted by the Selection Committee with reference to the notified Recruitment Rules for similar posts in the Government was a good criteria and hence has upheld the principle of 'seniority-cum-merit' on which the selection was made. We agree. It may be noted that as per the criteria followed by the Government of India, for appointments in the pay scale `6,500- 10,500/- the selection criteria adopted was 'seniority-cum- merit'. That the office circular indicated that officials having experience in the line would be preferred, only means that in case of a dead lock, the same would be resolved on the basis of experience possessed.

15. The third plea urged was that R-4 had directly submitted the application and had not got the same forwarded through proper channel. The Appellate Authority has noted that the Judge under whom R-4 was working as a reader was on leave on 26.2.1999, the last date for submitting applications and thus R-4 was justified, on account of necessity, to directly submit the application.

16. Sh.N.L.Bareja Advocate urged that the circular inviting applications' is dated 22.2.1999 and there was no reason for R-4 to wait till 26.2.1999.

17. Now, between 22.2.1999 and 26.2.1999, only 3 days intervened. Thus, we see no scope to read anything on the issue of the application being submitted on 26.2.1999. That apart, as noted herein above, the circular did not require the applications to be submitted through proper channel, the reason is obvious. The selection was in-house.

18. The last plea urged was that R-4 did not possess the necessary qualification, a plea which has to be rejected for the reason record shows that R-4 had a certificate evidencing his having successfully undergone a course in Library Sciences in the year 1984.

19. Before concluding we may note that the Selection Committee was headed by Sh.O.P.Dwivedi, ADJ, Delhi and two other members thereof were also Additional District Judges. We have no reasons to believe or infer that the Committee would be biased for or against anybody.

20. The writ petition is dismissed but without orders as to costs.

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