

Rameshwar Dutt SharmA. Vs.

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Court : Punjab and Haryana

Decided On : Apr-21-2011

Judge : M.M.Kumar, J.

Acts : [Electricity Act, 2003](#) - Section 42(5)

Appeal No. : LPA No. 17 of 2011

Appellant : Rameshwar Dutt SharmA.

Respondent : State of Punjab, and anr.

Advocate for Def. : Mr. Piyush Kant Jain, Adv.

Advocate for Pet/Ap. : Mr DV Sharma; Ms. Shivani Sharma; Mr. Ashish Aggarwal, Adv.

Judgement :

1. This order shall dispose of L.P.A. No. 17 of 2011 as well as CWP No. 2044 of 2011 as common question of facts and law is involved. In both the cases, appointment of respondent no. 3, Shri Harjit Singh Nag, as Member, District Consumer Forum, and Amritsar has been challenged and the grounds of challenge are similar. The appeal under Clause X of the Letters Patent is directed against judgement dated 23.11.2010 rendered by the learned Single Judge holding that the marks have been given by all the three members separately in accordance with the criterion mentioned therein and the Court is not to substitute its own judgement for that of the Selection Committee more particularly when no

allegations of mala-fide or extraneous considerations having been levelled.

2. Brief facts of the case necessary for the disposal of the controversy are that an advertisement was published at the instance of State Consumer Redressal Commission, Punjab in English Daily 'The Tribune' on 28.3.2010 inviting applications for filling up of, inter-alia, and one post of District Consumer Redressal Forum, Amritsar. The last date of receipt of application was 19.4.2010. According to the terms of the advertisement the candidate was required to be a person of ability, integrity and standing alongwith adequate knowledge and experience of atleast ten years in dealing with the problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. The appellant has claimed that he fulfilled all the requisite qualifications and accordingly applied for the post. The appellant alongwith other persons including respondent no.3 was called for the interview. After considering the competing claim of various candidates, respondent no. 3 was found more meritorious and was accordingly appointed. It is conceded on both hands that Selection Committee laid down the criterion on 18.2.2008 for selection of candidates for the District Consumer Forum which is as under: a) Academic qualifications 10 marks b) Experience 10 marks c) Knowledge of law/other proficiencies 10 marks d) Aptitude 10 marks e) General Knowledge 10 marks. Maximum marks were 50 by allocating 10 marks to each head.

3. Mr. D.V.Sharma, learned senior counsel for the appellant has argued that in the detailed bio-data submitted by respondent no.3 (P.3) alongwith brief details of experience there is not even a mention of any social service which he might have rendered in order to qualify for the post. The learned senior counsel has submitted that rendering of social service is an essential para meter for selection yet respondent no.3 has been awarded five marks out of 10 by the Selection Committee. According to Mr. Sharma, the appellant in the details concerning experience (P.2 Annexure 'A') has given the names of various Non Governmental Organizations where he has rendered service to the common man. According to him, the appellant has held the post of President, Bharat Vikas Parishad Amritsar Central, Shekhar Bharti, Amritsar, Sanskar Bharti, Peeth Parishad Shankracharya, Chinmiaya Mission and Amritsar Consumer Welfare Forum. Despite his

meritorious record, the appellant has been awarded only 6 marks. Mr. Sharma has also submitted that under the heading 'knowledge of law and rules' respondent no. 3 has been awarded 7 marks out of 10 whereas the appellant has again been given step motherly treatment by awarding 6 marks. In total, respondent no.3 has secured 29 marks and the appellant has secured 28 marks.

4. Mr. Ashish Aggarwal, learned counsel for the writ petitioner in CWP No. 2044 of 2011 has also highlighted that the petitioner has degree of M.A., LL.B. alongwith Diploma for Consumer Protection (P.2). According to the learned counsel, respondent no.3 who does not have any degree, knowledge of law cannot be assumed in his favour. Under the heading 'knowledge of law and rules' 7 marks have been awarded to respondent no.3 whereas petitioner has been awarded only 5 marks. He has maintained that it shows complete non application of mind and bias in favour of respondent no.3.

5. Mr.Piyush Kant Jain, learned Addl. Advocate General, Punjab has argued that the submissions made on behalf of the appellant and the writ petitioner suffer from a patent mis-conception because according to the criteria marks have been allocated under the head 'aptitude for social service' which is different from rendering actual social service. Therefore, for any member of Non Governmental Organization rendering of such service may not be crucial, but the aptitude for social service is of paramount consideration. According to the learned State counsel, a glance at the bio-data of respondent no.3 would show that he worked as Chairperson (Engineer-in-Chief), Forum for Redressal of Consumer Grievances under Section 42(5) of [Electricity Act, 2003](#). The Forum is an Appellate Authority against the various Dispute Settlement Authorities established by the Punjab State Electricity Board at different levels for a period of five months. He has maintained that respondent no.3 has attended the Training Programme on Knowledge, Management Practices and Applications' organised by National Productivity Council from 25.6.2007 to 29.6.2007. In so far as knowledge of law is concerned, respondent no. 3, apart from working as Chairperson of Forum for Redressal of Consumer Grievances also worked as Chief Engineer and Engineer-in-Chief/ System Operation Bhakra Beas Management Board, Chandigarh. In addition he has looked after the Operation and Maintenance of Dehar Power House Slapper

alongwith the work of Power Regulation and Procurement of Power Plant Equipment. He had dealt with the matters relating to Electrical Engineering, Fiannce, Law and administration effectively being head of the department to ensure timely execution of Jobs/ Projects for a period of four months.

6. Having heard the learned counsel for the parties at a considerable length and minutely perusing the paper book, we find that no ground is made out for setting aside the appointment of respondent no.3 as a Member of the District Consumer Forum. The Selection Committee has duly formulated a criterion by allocating 10 marks under each head, as have been extracted in the preceding para. It is significant to notice that there is no challenge to the criterion. Marks have been allocated for academic qualifications, aptitude for social service, and experience in field, knowledge of law /rules and general knowledge. All the three members have awarded separate marks and thereafter assessment has been made. Accordingly appointment has been made as per merit. There is no allegation of mala-fide or bias. The Courts cannot interfere in the selection but could only confine their judicial scrutiny to violation of any procedural safeguard or arbitrariness of Selection Committee which may have infringed Articles 14 and 16(1) of the Constitution. In the present case, marks have been allocated under all the heads and selection has accordingly been made. The Court is not to act as Court of appeal substituting its own opinion for the view of the Selection Committee even if two views are possible. The appeal as well as the writ petition lack merit and are thus liable to be dismissed.

7. The argument of Mr. D.V.Sharma, learned senior counsel for the appellant that respondent no.3 did not render any social service would not require any detailed consideration because there is no criterion kept for awarding marks for 'rendering social service'. The marks are to be awarded under the head 'aptitude for rendering social service'. There is world of difference between 'aptitude for social service' and 'rendering actual social service'. Therefore, we find that the learned State counsel is right in contending that marks have been rightly allocated under the head aptitude for social service and the argument advanced on behalf of the appellant suffers from basic mis-conception. Likewise, common argument has been raised by both the learned counsel for the appellant and writ petitioner that

excessive marks have been awarded to respondent no.3 under the head 'knowledge of law/ rules'. We find nothing wrong in the assessment of comparative merit by the Selection Committee by awarding marks under the aforesaid head. There are no marks kept for degree of M.A., LL.B or for Diploma in Consumer Protection. The marks have been allocated for the purpose of knowledge of law and rules. It has already come on record that respondent no.3 has worked with Forum for Redressal of Consumer Grievances under Section 42(5) of [Electricity Act, 2003](#) in his capacity as Chief Engineer. Moreover while working on various posts of Superintending Engineer, Chief Engineer and Engineer-in-Chief, respondent no.3 has acquired rich experience of dealing with the tenders and being appointing/ punishing authority dealing with cases of employees for grant of increment, fixation of pay and punishment etc. Therefore, it cannot be concluded that respondent no.3 did not have any knowledge of law or the rules. Accordingly, we find no substance in the aforesaid contention raised by the learned counsel for the appellant as well as the writ petitioner.

8 As a sequel to the above discussion, the appeal as well as the writ petition is found to be without any substance and they do not warrant admission. Accordingly both the appeal as well as the writ petition is hereby dismissed.

9. A copy of this order is placed on the file of CWP No. 2044 of 2011.

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