

Mohd Nayeem vs Union Of India Thru. Its Secy. Health And ... on 20 January, 2023

Author: Pankaj Bhatia

Bench: Pankaj Bhatia

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 17

Case :- WRIT - A No. - 485 of 2023

Petitioner :- Mohd Nayeem

Respondent :- Union Of India Thru. Its Secy. Health And Family Welfare New Delhi And 7 0

Counsel for Petitioner :- Deo Prakash Srivastava

Counsel for Respondent :- A.S.G.I.,C.S.C.,Nimit Sharma

Hon'ble Pankaj Bhatia,J.

Vakalatnama filed by Shri Sanjay Singh, Advocate on behalf of respondent nos.7 & 8 today in Court is taken on record.

Heard learned counsel for the petitioner.

Present petition has been filed stating that the petitioner was initially appointed as Safai Avam Khadya Nirikshak in Nagar Palika and subsequently he was posted at Kanpur. It is stated that on 11.8.2011, the State Government issued a letter seeking to impart training to those persons who were eligible to be appointed as Food Safety Officers under Section 37(2) of The Food Safety and Standards Act, 2006. The petitioner claims that his name appeared in the list of persons who were found to be eligible and prays that respondents may be directed to conduct the training.

Considering the submission made at the Bar and the fact that although the petitioner's name appeared in the list of persons who were found eligible for training, it is the prerogative of the State government to grant training to the eligible candidates or not. No mandamus in this regard can be issued.

Learned counsel for the petitioner places reliance on a judgment passed by this Court in Writ Petition No.1717 (MB) of 2013 (Virendra Kumar Yadav v. Union of India & Ors.) decided on 2.11.2015 wherein while deciding the issue raised by similar persons who had filed the intervention application, the Court declined to adjudicate upon the rights leaving it open to the intervenor to pursue their remedies as may be available under law.

In the light of the said observation, learned counsel for the petitioner has availed the remedy by filing the present petition.

As I have held that merely by preparation of list of eligible candidates, a candidate does not acquire any vested right of consideration, no relief can be granted.

Learned counsel for the petitioner also places reliance on a judgment of the Bombay High Court in the case of Sudhir B. Fating & Anr. v. The State of Maharashtra & Ors.; Writ Petition No.1354 of 2016 decided on 13.10.2016 wherein an order with regard to training of the petitioners therein was passed.

A perusal of Para - 16 of the judgment itself reveals that a submission was made by the Assistant Government Pleader that the Food Inspectors working on the establishment of the State Government have now been designated as Food Safety Officers; in the present case, there is no such concession or any order passed in favour of the petitioner, thus, the reliance placed upon the said judgment is ill-founded.

Learned counsel for the petitioner further places reliance on a judgment of Jharkhand High Court in the case of Paras Mani Pandey & Anr. v. State of Jharkhand & Ors.; W.P. (S) No.91 of 2013 decided on 13.12.2013 wherein the petitioners had claimed that they were Food Inspectors and as their designation was changed to Food Safety Officer, suitable directions were issued at their instance.

In the present case, once again there is no such designation granted to the petitioner either as Food Inspector or Food Safety Officer, he was merely found to be eligible, thus, the said judgment can be of no avail.

For all the aforesaid reasons, the writ petition lacks merit and is accordingly dismissed.

This order has been passed in the presence of Shri Ambrish Rai, learned counsel appearing for respondent no.1/Union of India and Shri Sanjeev Singh, learned counsel appearing for respondent nos.7 & 8.

Order Date :- 20.1.2023 nishant