

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 141 of 2012(O&M)

Date of decision : 30.06.2015

Joginder Singh

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Sanjeev Kodan , Advocate for the petitioner.
Mr.Ashok Singh Chaudhary, Addl.AG, Haryana.
Mr.Parveen Gupta, Advocate for respondents No.2and 3.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the action of the respondents in terminating his services. The petitioner was working in the technical stream of the Indian Navy. By document Annexure P-1 it was certified that he had successfully completed four years theoretical and practical training as an Artificer Apprentice in the Electrical Engineering Training Establishment of the Indian Navy I N S VALSURA from 18.1. 82 to 18.01.86. It was further certified that this course was recognised at par with diploma in Electrical Engineering from a recognised Indian Polytechnic. After his release from the Indian Navy he applied for the job of Assistant Engineer. As per Government of India, Ministry of Education and Social Welfare, Department of Education, New Delhi, letter No. F 18-28/70-7-2 dated 05.01.1972 a

person with diploma and 10 years experience in the technical field in any of the Armed Forces was entitled to be considered as equivalent to a degree holder. Along with his application the petitioner also appended Annexure P-2 which was a certificate issued by one R.S.Gautam, Commander in Indian Navy to the effect that the petitioner who had the above mentioned diploma and had 15 years professional experience was eligible to apply for a post which required qualification of a degree in Electrical Engineering with two years experience. The petitioner was selected and appointed as an Assistant Engineer. Thereafter the respondents sent copies of letter Annexure P-2 to the authorities in the Indian Navy for verification. It was reported that that letter was not issued by the competent authority. On the basis thereof the services of the petitioner were terminated vide order dated 10.04.2007 Annexure P-11. Aggrieved against that order of termination the petitioner moved an appeal which was also dismissed vide order dated 10.03.2009 Annexure P-13. That is the reason the petitioner is before this Court.

The precise argument of learned counsel for the petitioner is that the petitioner draws equivalence from letter Annexure P-1 and experience which are not disputed. As per learned counsel there was no requirement for the petitioner to have appended Annexure P-2 with his application but since it was a letter issued by an officer and it only was to the effect that the qualifications of the petitioner were equivalent to degree that the petitioner appended the same by way of abundant caution. As per learned counsel the petitioner never claimed that this was the basic document which rendered him eligible and, therefore, the

mere fact that this letter was not issued by the competent authority could not render the petitioner ineligible once his diploma and experience were not disputed. He has relied upon a Division Bench decision of this Court in LPA No. 1493 of 2011 decided on 27.09.2011(Annexure P-18) involving the same facts as in the instant writ petition whereby the observation of the learned single judge that the diplomas acquired by the petitioner-respondents were to be recognised as equivalent to degree in Engineering making them eligible for promotion to the post of Assistant Engineer. The SLPs preferred against the LPA decision were also dismissed(Annexure P-19). Learned counsel for the respondents has fairly accepted the fact that no adverse information has been received by the respondents with regard to document Annexure P-1. He has, however, sought to argue that the document Annexure P-2 having not been issued by the competent authority, the respondents were justified in terminating the services of the petitioner.

In my opinion this argument cannot hold water. As per the letter dated 05.01.1972 (supra) and the documents, the eligibility of the petitioner stems from his diploma and experience. These are not disputed. The mere fact that he appended Annexure P-2 which was not even necessary would not take away the essential eligibility which he had obtained after doing diploma and experience. In the circumstances impugned orders Annexure P-9 and P-13 have to be set aside and are accordingly quashed. The respondents are directed to reinstate the petitioner with all consequential benefits. The necessary exercise be

completed within a period of three months from the date of receipt of a certified copy of this order.

Petition stands disposed of in the above terms.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

June 30, 2015
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