

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

**CWP No.2774 of 2014 (O&M)
Date of decision: 10.03.2015**

Jai Pal

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Rohan Singh, Advocate
for Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Gagandeep S.Wasu, Addl.A.G.Haryana.

AMIT RAWAL J. (ORAL)

The petitioner has approached this Court by invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the selection of respondent No.5, who is alleged to be selected for the post of Junior Engineer (Civil) in BPS Government Medical College for Women, Khanpur Kalan, Sonapat, on the basis of fraud and fabricated document.

The grievance of the petitioner is that the petitioner was eligible for the post of Junior Engineer (Civil) as he was matric pass with Diploma in Engineering with two years experience in

Government Institute. It has been further stated that petitioner was more meritorious as he has 51% marks in Diploma, whereas, respondent No.5 - Nar Singh had less than 50% marks.

Vide order dated 13.2.2014, this Court while issuing notice of motion, noticed the contention of the petitioner in its order which is extracted herein below:-

It is the contention of the counsel for the petitioner that according to the matriculation certificate of respondent No.5 (Annexure P-8), his date of birth is 10.12.1984. If that is the correct date of birth of respondent No.5, he could not have obtained admission in Chhotu Ram Polytechnic, Rohtak in the year 1990 for three years Diploma Course in Civil Engineering. The said respondent would be only six years old. That apart, he contends that the basic qualification for seeking admission in the Diploma Course is matriculation. He, on this basis, contends that the date of birth of respondent No.5 actually is 01.05.1971 and in support of his contention, he places reliance upon the information dated 05.07.2013 (Annexure P-13) as has been supplied by the Assistant Public Information Officer, Chhotu Ram Polytechnic, Rohtak from where respondent No.5 has passed his Diploma. He, thus, contends that the selection and appointment of respondent No.5 on the post of

Junior Engineer (Civil) in BPS Govt. Medical College for Women, Khanpur Kalan, Sonapat is based upon forged documents and, thus, not sustainable in the eyes of law. Notice of motion for 19.08.2014.”

Mr. Gagandeep S.Wasu, Additional Advocate General, Haryana has raised preliminary objection qua maintainability of writ petition on the ground that writ petition is hit by doctrine akin to *res judicata*, inasmuch, as the petitioner has already filed a writ petition bearing No.20197 of 2013 on identical ground and the same was dismissed by this Court vide order dated 15.01.2014. Besides preliminary objection, he further stated that respondent No.5 was selected and joined on 12.11.2012 and, thereafter, on 17.5.2013 resigned from the job. Therefore, the grievance of the petitioner claiming himself to be more meritorious than respondent No.5 no longer subsists.

I have heard learned counsel for the parties and am of the view that the present writ petition does not fall within the realm of judicial review while exercising power under Article of 226 of the Constitution of India, though the petitioner had disclosed that he had earlier approached this Court but has not intentionally attached the order vide which the petition was dismissed and the grievance of the petitioner in the present writ petition is identical and similar to the previous writ petition.

Be that as it may, the fact remains that respondent No.5

has resigned from the post of Junior Engineer (Civil), therefore, the grievance of the petitioner no longer subsists.

The petitioner would be at liberty to apply afresh, in case, fulfills the qualifications and age criteria, if the post is not already filled. Accordingly, there is no illegality, much less, perversity, in the impugned order at Annexure P-10, do not suffer capricious and in view of the fact that respondent No.5 has resigned from the job, the writ petition is disposed of.

(AMIT RAWAL)
JUDGE

March 10, 2015
savita