

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18783 of 1997 (O/M)
Date of decision : 16.11.2016

Chander Bhan Singh Petitioner (s)
Versus

State of Haryana and another Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- None for the petitioner.
Mr. Gaurav Goel, Assistant A.G. Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
- .- -.-

KULDIP SINGH J. (ORAL)

None has come present on behalf of the petitioner to assist the Court. On the previous date also i.e. 9.9.2015 when the case was taken up for hearing, none had appeared on behalf of the petitioner. Therefore, this Court proceeded to decide on merits the controversy involved in the present writ petition.

The petitioner was working as an Inspector in the Cooperative Societies, Haryana. He was promoted on 8.3.1990 as Assistant Registrar, Cooperative Societies. Under Rule 9 (b) of the Punjab State Cooperative Service Class-II Rules, 1958 (in short 'the Rules of 1958'), the petitioner was required to pass departmental examination in higher standard, which he failed to do so and consequently, he was reverted to the post of Inspector, vide order dated 23.11.1993. The petitioner approached this Court by way of filing CWP No. 15205 of 1993, in which the respondents took the stand that they are willing to give one more chance to the petitioner to pass the higher standard departmental examination in accounts. Accordingly, the

CWP No. 18783 of 1997 (O/M)

Division Bench of this Court set aside the said order of reversion. It was further observed by the Division Bench of this Court in CWP-15205-1993 that if the petitioner fails to pass the departmental examination in higher standard, the State Government will be at liberty to take such action against him as is warranted under the Rules.

It comes out that the petitioner again failed to pass the said departmental examination in higher standard. Therefore, vide order dated 9.2.1996 (Annexure-P-2), the petitioner was again reverted to the post of Inspector. Thereafter, the petitioner was granted exemption from passing the said departmental examination in higher standard under Rule 9 (b) of the Rules of 1958, vide order dated 29.7.1996 (Annexure-P-4). However, the petitioner retired from service on 31.8.1996. The petitioner claims that in view of exemption granted on 29.7.1996 (Annexure-P-4), the impugned order dated 9.2.1996 (Annexure-P-2) is liable to be quashed. It is further pleaded that the said order is discriminatory as similar orders were passed against some other Assistant Registrars on 23.7.1996 (Annexure-P-6) and the same were withdrawn, vide order endorsed on 31.7.1996 (Annexure-P-7). Therefore, the petitioner prays that the impugned order dated 9.2.1996 (Annexure-P-2) should be quashed and it should be declared that he retired from service with effect from 31.8.1996 as an Assistant Registrar.

The respondents, in the reply, have taken the stand that since the petitioner failed to pass the departmental examination in higher standard despite additional opportunity given to him, therefore, the reversion order is in accordance with law.

I have considered the case of the petitioner, heard the learned State counsel and have also carefully gone through the file.

CWP No. 18783 of 1997 (O/M)

-3-

Admittedly, under Rule 9 (b) of the Rules of 1958, the petitioner was required to pass the departmental examination in higher standard, in which he failed. He was earlier reverted on 23.11.1993. The petitioner approached this Court by way of filing CWP-15205-1993, in which on the undertaking of the respondents to give one more chance to the petitioner to pass the departmental examination in higher standard, the said order was quashed and it was further observed by the Division Bench of this Court in CWP-15205-1993 that if the petitioner fails to pass the departmental examination in higher standard, the department can take appropriate action against the petitioner. Thus, this Court gave one more opportunity to the petitioner to pass the departmental examination in higher standard. However, the petitioner again failed to pass the said departmental examination in higher standard and consequently, the impugned order dated 9.2.1996 (Annexure-P-2) was passed, which in my view, is perfectly in accordance with law. The petitioner has relied upon the exemption granted vide order dated 29.7.1996 (Annexure-P-4), vide which the Governor of Haryana granted the exemption to the petitioner under Rule 9 (b) of the Rules of 1958 from passing the said departmental examination in higher standard. In view of the exemption granted by the Governor of Haryana on 29.7.1996, the petitioner could be again promoted without qualifying the departmental examination in higher standard, however, the petitioner retired from service on 31.8.1996 before he could again be considered for promotion. Therefore, the exemption order dated 29.7.1996 (Annexure-P-4) will not help the petitioner.

The second ground taken is of discrimination. Vide order dated 23.7.1996 (Annexure-P-6), about 18 officers were reverted on account of

CWP No. 18783 of 1997 (O/M)

non passing of the departmental examination in higher standard. However, vide order 31.7.1996 (Annexure-P-7), the said order was withdrawn. The perusal of order endorsed on 31.7.1996 (Annexure-P-7) shows that it was not unconditionally withdrawn. Through this order, while withdrawing the order of reversion, one more chance was given to the said officers to pass the departmental examination in higher standard, failing which they will be reverted to the posts of Inspectors/SAs. Similar relief was already granted to the petitioner by the order of the Court. Therefore, the impugned order dated 13.2.1996 (Annexure-P-2) is not discriminatory.

In view of the matter, I do not find any merit in the present writ petition and the same is accordingly dismissed.

(KULDIP SINGH)
JUDGE

16.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No