

CWP No. 13841 of 2013

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

**CWP No. 13841 of 2013
Date of Decision : 23.11.2016**

Satwinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: None for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General, Haryana.

Mr. Ashwani Talwar, Advocate for respondent No. 3.

Anupinder Singh Grewal, J.(Oral)

Although the matter was adjourned on two previous occasions for want of presence of counsel for the petitioner, learned counsel for the petitioner has chosen not to appear in the matter today as well. Therefore, the petition is taken up for final disposal in the absence of counsel for the petitioner.

The petitioner has impugned the action of the respondents in rejecting his candidature for the post of Junior Technical Assistant on the ground of medical unfitness.

The petitioner had applied for the post of Junior Technical Assistant in pursuance to Advertisement dated 07.06.2008 (Annexure P-1) issued by respondent No. 2. The petitioner is stated to have qualified for

the same and was offered appointment subject to his medical fitness. The Civil Surgeon, Ambala, while medically examining the petitioner, had opined that although he did not suffer from any physical infirmity but was deficient in colour perception, which was a disqualification for employment in the Haryana Warehousing Corporation. The petitioner represented to the respondents against the opinion of the Civil Surgeon, Ambala and the respondents referred the case of the petitioner to PGI, Chandigarh, for his medical examination. A Board of six Doctors was constituted by the PGI Chandigarh, which after examining the petitioner opined as under :-

“The candidate namely Sh. Satwinder Singh, 22M, S/o Sh. Hukam Singh, Resident of House No. 460, Durga Colony, Narayangarh, District Ambala, Haryana was examined in the Advanced Eye Centre, PGI, Chandigarh vide CR No. 272343 dated 12.10.2009. On examination, his unaided visual acuity was 6/5 in the right eye and 6/6 in the left eye. On the Ishiara chart, he demonstrated red and green color deficiency. Even on Edridge Lantern test, the candidate was unable to identify Red and Green color from both eyes at a distance of 6 meters with full aperture. In our opinion, he is not fit to perform his duties as a Junior Technical Assistant.”

It is the case of the petitioner that it is not a requirement for the job of Junior Technical Assistant to have perfect colour vision and in any case, he could be posted at the Head Office. It is also pleaded that perfect colour vision is required only for Class-I and Class-II posts and it is not applicable for the post of Junior Technical Assistant, which is a Class-III

post.

I have heard learned counsel for the respondents.

It is entirely within the domain of the medical experts to determine the fitness of a candidate for a particular post. The Civil Surgeon Ambala as well as the Board of Doctors of PGI Chandigarh have opined that the petitioner, who is deficient in colour perception, is unfit for the job of Junior Technical Assistant. In the impugned order dated 07.09.2009 (Annexure P-4), it has been stated by the Managing Director, Haryana Warehousing Corporation-respondent No. 3 that a Junior Technical Assistant is required to carry out physical analysis and categorization of stocks involving different fractions of the grain, including dehusk, damaged and discoloured grains, wherein distinct perception of colours is required.

Therefore, it cannot be said in any manner that a person, who cannot identify between various colours, would be suitable for the job of Junior Technical Assistant. The action of the respondents in holding the petitioner medically unfit does not suffer from any infirmity, which would warrant interference in writ jurisdiction.

Furthermore, the petitioner had in the alternative, sought appointment to the post of Godown Keeper, which has also been declined by the respondents on the ground that it is a Cadre post and in the absence of any advertisement or vacancies for filling the same, the petitioner could not be adjusted thereagainst. Therefore, the claim of the petitioner has rightly been rejected for appointment as a Godown Keeper as until and unless the post of a Godown Keeper is advertised after laying down the

eligibility conditions therein, it cannot be filled by appointing the petitioner, who had applied for the post of Junior Technical Assistant. Consequently, the petition being devoid of any merit stands dismissed.

November 23, 2016.
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(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	Yes/No