

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 14025 of 2016 (O&M)

Date of Decision: 27.7.2016

Rajbir Singh

--Petitioner

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Raman B. Garg, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant petition is directed against the order dated 24.5.2016 (Annexure P-6) issued by the Superintending Engineer, Jhajjar Circle, PWD (B&R) Branch, Jhajjar in terms of which the previous order dated 3.5.2016 promoting the petitioner to the post of Surveyor, has been withdrawn.

Counsel for the petitioner has referred to the order dated 3.5.2016 (Annexure P-4) in terms of which the petitioner while holding the post of Beldar had been promoted to the post of Surveyor on provisional basis for six months in the pay scale of Rs.5200-20,200+2400.

The short submission raised by counsel is that he had been engaged and working on the post of Beldar in the pay scale of Rs.4440-7440+1300 Grade Pay and the impugned order withdrawing his promotion has been passed without affording to him an opportunity of hearing/any notice having been issued.

During the course of hearing today and on a specific query having been put, counsel has conceded that the post of Surveyor is governed by statutory rules called the Haryana Public Works (Building & Road)

Department (Group-C) Field Staff Service Rules, 2012. Under Rule 9 the mode of recruitment for the post of Surveyor has been stipulated i.e. 50% by direct recruitment; 50% by promotion or by transfer or deputation of an official already in the service of Govt. of India or any State Govt. In the appendix to the rules the eligibility conditions for appointment to the post of Surveyor by resorting to the mode of promotion have been laid down and which are (i) Matric with Hindi or Sanskrit and (ii) 8 years experience as Chain Man/Chain Mate.

Counsel appearing for the petitioner has not been able to dispute the rule position and which is to the effect that the petitioner is not eligible to be considered for promotion to the post of Surveyor as he does not possess experience either on the post of Chain Man or Chain Mate. However, in the same breath counsel would submit that the petitioner has experience on the post of Surveyor and even though the rule is silent as regards counting of experience on the post of Surveyor, yet, such experience could not have been discounted.

Notice of motion.

On the asking of the Court, Mr. Ravi Pratap Singh, learned A.A.G., Haryana accepts notice on behalf of respondents-State. A complete copy of the writ paper book has been handed over to him and who has perused the same in Court today.

In the light of the order that I propose to pass, there would be no requirement of seeking a reply to the writ petition. With the consent of learned counsel for the parties, the present writ petition is being disposed of and the matter is being remanded back to the Superintending Engineer, Jhajjar Circle, PWD (B&R) Branch, Jhajjar to reconsider the matter and to

pass an order afresh. Such view is being taken on the sole ground that the impugned order withdrawing the order of promotion of the petitioner from the post of Beldar to the post of Surveyor would obviously entail adverse civil consequences and the order itself reflects that no opportunity of hearing/notice had been served upon the petitioner.

Accordingly, the order dated 24.5.2016 at Annexure P-6 is set aside. Respondent no.3 is directed to pass an order afresh after affording to the petitioner an opportunity of hearing. Liberty is also granted to the petitioner to submit a detailed representation with regard to his claim within a period of 10 days from today.

The exercise of reconsideration and passing of order afresh be completed within a period of six weeks from today.

It is clarified that by virtue of the quashing of the impugned order dated 24.5.2016 (Annexure P-6) the petitioner would not be automatically vested with a right to hold the post of Surveyor and the same would be subject to the outcome of the final order to be passed. It is also clarified that the observations contained in this order would not be taken as an expression of opinion of this Court on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

27.7.2016

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Whether speaking/reasoned: Yes.

Whether Reportable: No.