

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 18804 of 2013

Date of decision : February 02, 2016

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Sarjeet

.....Petitioner

Versus

DHBVNL through its Managing Director and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Jai Singh Yadav, Advocate for the petitioner.
Mr. Gaurav Mohunta, Advocate for the respondents.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

Present petition has been filed by the petitioner seeking directions to the respondents to allow the petitioner to continue on the post till the regular incumbents join in view of the undertaking given by the respondents before this Court vide orders dated 30.5.2009 (Annexures P-2 and P-3) and as per the law laid down by this Court in CWP No. 15332-CAT of 2003 decided on 28.3.2005 titled, ' Harminster Kaur and others vs. Union of India and others' (Annexure P-1).

The respondents invited applications for recruitment to the post of Assistant Lineman (ALM) to be filled up on daily wages.

Petitioner applied for the said post. He appeared in the interview

before the selection Committee and was selected. Thereafter, he joined his duties as ALM. He was allotted ESIC and Provident Fund Account numbers and Rs.1300/- per month was deducted from his salary under the head 'Provident Fund Account'. The petitioner has not been paid his salary from November 2012 till 21.11.2013 and has been restrained from continuing his services. Similarly situated employees who were appointed ALM had approached this Court by way of CWP No. 2141 of 2009 (Ajay Kumar and others vs. Dakshin Haryana Bijli Vitran Nigam and others) and CWP No. 3008 of 2009 (Parveen Kumar and others vs. Dakshin Haryana Bijli Vitran Nigam and others). These writ petitions were disposed of vide order dated 30.5.2009 (Annexures P-2 and P-3) whereby an undertaking was given by the respondents that ALMs/SAs who have been engaged on contract/outsourced basis shall be given preference by the contractors for engaging them on DC rates for six months. It was further stated that other persons shall only be considered when earlier engaged ALMs/SAs having experience are not available. The petitioner is seeking the same benefit that he should be retained as per the orders of this Court (Annexures P-2 and P-3) and his services should not be terminated/dispensed with till the regular incumbents join.

On notice, respondents no. 1 to 3 filed written statement submitting therein that as per the outsourcing policy of the Government of Haryana adopted by the respondent-Nigam, various categories of employees including Assistant Lineman (ALM) were engaged through contractor in the Nigam. The work order/contract

allotted to the Contractor by the Nigam had specified the staff qualifications also, the relevant Clause 30 of the same was reproduced:

“30. Staff Qualification Requirement:-

As per GM/Administration DHBVN, Hisar memo No. Ch. 126/GM/Admn./Gen-38.A/Vol-1 dt. 17.8.2012 following qualification for SA/ALM's on outsourcing basis is required.

Assistant Lineman:

Matric with 2 years ITI Electrician/Wiremen/Electronics trade or having 2 years Vocational course under the trade of lineman or Electrician (Maintenance and Repair of Electrical and Domestic Appliances) conducted by Director, Industrial Training & Vocational Education, Haryana or National Apprenticeship Act-1961 from any recognized Institute by the State Govt. must have passed Hindi/Sanskrit up to Matric standard”.

Vide letter dated 31.12.2012 (Annexure R-1), the Superintending Engineer/Administration of the Nigam had issued a direction to scrutinize/verify the documents i.e ITI certificate or any other certificate of Assistant Lineman engaged through contractor as per outsourcing policy. It was further submitted that all the contractors after verification of the documents from the respective institutes have terminated/removed from their service/employment all

such persons whose certificates/degrees/diploma were found to be not recognized by the Director, Industrial Training and Vocational Education, Haryana. A copy of the list of private ITI recognized by the Director, ITI, Haryana was also placed on record as (Annexure R-2). The petitioner had produced ITI certificate dated 21.6.2007 issued by PITI, Hissar which is not a recognized/approved Institute as per list (Annexure R-2). Since the certificate issued to the petitioner was found to have been issued by an unrecognized institute, therefore his services were rightly terminated. The petitioner cannot claim any parity with the orders passed by this Court in Annexures P-2 and P-3 as the petitioner's services on contractual basis could only be used by the respondents if he was eligible to perform the duties as are required on the post of Assistant Lineman subject to his recognized and requisite qualifications.

I have heard counsel for the parties and gone through the records of the case. The claim of the petitioner is liable to be rejected. In view of the outsourcing policy, the petitioner was not found eligible to be appointed as Assistant Lineman as the ITI certificate dated 21.6.2007 issued to him by PITI, Hissar (Annexure R-3) is not recognized/approved Institute as per list (Annexure R-2).

Having regard to the aforesaid, the writ petition is dismissed.

February 02, 2016
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(**RITU BAHRI**)
JUDGE