

In the High Court of Punjab and Haryana at Chandigarh

**Civil Writ Petition No. 68 of 2015
Date of Decision: 15.3.2016.**

Ghansham

.....Petitioner

Versus

Oriental Bank of Commerce and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Karan Gupta, Advocate
for the petitioner.

Mr. R.N.Lohan, Advocate
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing the orders dated 12.8.2014 (Annexure P-2) and 19.11.2014 (Annexure P-1).

Case of the petitioner, in brief, is that he had applied for the post of Peon-cum-House Keeper in terms of the advertisement issued by the respondent bank. Petitioner was selected for the said post and was issued appointment letter dated 26.2.2011. Subsequently, on the basis of a complaint received by the respondent bank, show cause notice was issued to the petitioner that at the time of securing employment, he had misrepresented his educational qualification. Petitioner submitted his reply to the

said show cause notice. Petitioner appeared before the Enquiry Officer and the Enquiry Officer vide report dated 25.2.2014 held that the petitioner had got the job by concealing the material facts. Petitioner submitted his reply to the enquiry report. The punishing authority vide order dated 12.8.2014 (Annexure P-2) imposed punishment of compulsory retirement with superannuation benefits i.e. pension and gratuity as would be due otherwise under the rules or regulations prevailing as on date and without disqualification from future employment. Appeal filed by the petitioner against the said order was dismissed by the Appellate Authority vide order dated 19.11.2014 (Annexure P-1). Hence, the present petition by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner had been punished as he was having higher qualification. Hence, the impugned orders were liable to be set aside.

Learned counsel for the respondents, on the other hand, has opposed the petition and has submitted that the petitioner had not been punished on account of the fact that he was more qualified but on account of the fact that he had furnished a false undertaking. In support of his arguments, learned counsel has placed reliance on the decision given by this Court in **Letters Patent Appeal No. 2264 of 2011 titled Jasvinder Singh versus Corporation Bank and others**, wherein it was held as under:-

“It is true that a Full Bench of this court has held that a candidate with higher qualifications, cannot be excluded from the process of selection, but the question in this case is not one of, the appellant being disqualified for

possessing higher qualifications but of the appellant filing a false undertaking that he had not passed the 10+2 examination. A false undertaking was admittedly filed by the appellant, while obtaining employment. The learned Single Judge has, therefore, rightly held against the appellant. A submission that the Bank should be allowed to conclude departmental proceedings, cannot be accepted. The false undertaking filed by the appellant renders his selection null and void.”

In the present case, admittedly, petitioner had applied for the post of Peon in pursuance to the advertisement issued by the respondent bank. Petitioner was appointed as Peon vide appointment letter dated 1.3.2011 (Annexure P-3). Clause 10(b) of the said letter reads as under:-

“Your education qualification is 10th Pass and is below 12th class.”

Petitioner declared that he was 10th pass and also submitted an affidavit in this regard, although, petitioner was a graduate. Enquiry was held against the petitioner before passing of the order by the punishing authority. During enquiry, it transpired that the petitioner was a graduate and had tendered affidavit dated 10.3.2011 declaring that he was only 10th pass and had thereby suppressed the fact that he was possessing higher qualification. Hence, the petitioner had given a false statement at the time of his joining as a Peon. In these circumstances, the orders passed by the punishing authority as well as the Appellate Authority call for no interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India.

Dismissed.

(SABINA)
JUDGE

March 15, 2016
Gurpreet