

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.7933 of 2016 (O&M)

Date of decision: April 28, 2016.

Sobh Nath

... **Petitioner**

v.

The Central Administrative Tribunal, Chandigarh Bench and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE SURYA KANT**
HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Shri Rajnish Gupta, Advocate, for the petitioner.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral):

The petitioner assails the order dated 31.7.2015 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short the Tribunal), vide which his Original Application (OA), challenging the selection and consequential appointment of respondents No.5 and 6 as Junior Engineer-II by way of promotion from the post of TM Fitter against IMA quota, has been dismissed.

The Tribunal has dismissed the OA on two counts, namely, being barred by limitation and that the petitioner having participated in the examination, cannot be permitted to challenge the selection as also the criteria on the plea that the question paper in the written examination was out of syllabus or the assessment has been wrongly made.

We have heard Learned Counsel for the petitioner and gone through the record.

It is pointed out that earlier also the petitioner had filed OA bearing No.1201/PB of 2011 challenging the same selection which he withdrew with liberty to file a fresh OA with better particulars. The said OA was permitted to be withdrawn without any objection from the side of counsel for the official respondents and liberty was granted to the petitioner to file a fresh OA.

Thereafter, a fresh OA was filed which the Tribunal has dismissed on the plea of limitation. As regards the merits, it is contended that the annual confidential reports (ACRs) have not been correctly evaluated and due marks have not been awarded.

Having heard learned Counsel for the petitioner and after going through the record, we are satisfied that the Tribunal has rightly non-suited the petitioner on both the counts.

It is apparent from the previous order dated 5.12.2012 passed by the Tribunal in OA No.1201/PB of 2011 that the petitioner did not implead the selected candidates as party respondents and as such, no OA is deemed to have been filed against respondents No.5 and 6. Similarly, the OA was dismissed as withdrawn with liberty to file a fresh one on 5.12.2012, whereas the second OA is said to have been filed by the petitioner on or after 1st July, 2013. No application for condonation of delay was admittedly filed by him. The petitioner has failed to explain as to how second OA, filed in July 2013, was within limitation.

Similarly, the petitioner cannot be permitted to challenge the selection merely on the basis of ACRs. The written test was held and overall merit was prepared on the basis of performance in the written

examination, service record and performance in the interview. Once the marks of all the relevant factors are clubbed together, respondents No.5 and 6 are admittedly higher in rank than the petitioner.

In view of the above, no case to interfere with the impugned order is made out.

Dismissed.

[Surya Kant]
Judge

[A.B. Chaudhari]
Judge

April 28, 2016.
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