

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

CWP No. 17614 of 2015 (O&M)
Date of decision: 3.2.2017

Kuldeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. PK Goklaney, Advocate,
for the petitioner.

Mr. Pankaj Mulwani, DAG, Punjab,
for respondent No.1.

Mr. Nitin Kaushal, Advocate,
for respondents No. 2 and 3.

JAISHREE THAKUR, J.

CM No. 1364 of 2017

CM is allowed. Replication along with Annexure P/18 is taken
on record.

Main case

1. The petitioner was appointed on the post of Sewadar pursuant to an advertisement issued by the Market Committee Dina Nagar. The petitioner had qualification of higher secondary and with date of birth reflected as 18.02.1970. As the petitioner was overage, the Committee, in terms of Rule 3.8 of the Punjab Civil Service Rules Volume 1, vide its resolution dated 9.12.2011, granted relaxation in age to the petitioner and issued an appointment letter. A complaint was filed on 23.09.2014 against

the appointment of the petitioner stating therein that the petitioner had been appointed against the post of Sewadar despite being overage and on account of the fact that he was a relative of the Chairman. The resolution passed by the Market Committee Dina Nagar was cancelled by the Secretary Punjab Mandi Board, its office order dated 07.07.2015. Subsequently, the appointment was withdrawn by office order dated 17.7.2015. Aggrieved against this office order, the instant writ petition has been filed.

2. Mr. P.K. Goklaney learned counsel appearing on behalf of the petitioner *inter alia* contends that no notice was issued to the petitioner before cancellation of his appointment order, nor any opportunity of personal hearing was granted. It is contended that the Market Committee Dina Nagar was well aware that the petitioner was overage and as per the rules his age was relaxed and appointment offered.

3. Per contra Mr. Nitin Kaushal counsel for respondents 2 and 3 submits that the petitioner was overage and could not have been offered appointment.

4. I have heard the counsel for the parties. It is not in dispute that the petitioner was appointed by resolution passed by the Market Committee Dina Nagar relaxing the age. After he had been appointed, he acquired a valuable and vested right which could not be taken away without adhering to the principles of natural Justice. In such a case when the petitioner has a vested right by virtue of an appointment having been offered to him, it became incumbent upon the respondent authorities to issue a show cause notice and give an opportunity of hearing to the selected employee. Without adhering to the basic principle of *Audi alteram partem*, any order passed is

illegal and without jurisdiction. Thus, I am of the considered view that before passing impugned order, which affect the civil rights of the employee, the petitioner herein, has to be given a chance of representing his case.

5. Consequently, the impugned order is hereby set aside and this writ petition is disposed of giving liberty to the respondents to issue a show cause notice to the petitioner and thereafter take an appropriate decision by passing speaking order in accordance with law. Needless to say that till such decision is taken, the petitioner will be allowed to discharge his duties.

3.2.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No