

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

**CWP-13655-2017
Date of Decision :18.07.2017**

DALBIR SINGH

.....Petitioner

Versus

STATE OF HARYANA & ORS

.....Respondents

CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. J.P.Dhull, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

Mr. Rajinder S.Rana, Advocate
for respondent No.2.

Mr. Jitender Malik, Advocate
for respondent no.5.

AMOL RATTAN SINGH, J. (ORAL)

The petitioner in this case has challenged his termination from the post of a Junior Engineer on contract basis in the Integrated Cooperative Development Project (ICDP), vide the impugned order dated 31.05.2017, issued by respondent no.3 herein, i.e. the Registrar, Cooperative Societies, Haryana. The petitioner was appointed on the said post vide an order dated 26.05.2014, Annexure P-3, upon a common selection having been made for

appointment to such posts in six districts of Haryana on contract basis, the petitioner having scored 76.26 marks and respondent no.5, i.e. Vishal Dahiya, having scored 57.39 marks. Consequently, the petitioner and five other persons were all appointed on the same date to the said post, with the petitioner having scored the highest marks followed by one Vikas Kumar who had scored 75.2 marks and Kulbir Singh who had scored 69.76 marks.

In between one Meenu is also seen to be figuring in the appointment order at serial number 3, though she had lower marks than even Kulbir Singh. However, as already recorded in the earlier order of this Court dated 13.07.2017, on the basis of record produced in Court by the respondents on that date, the recommendation by the committee constituted, had been for appointing the first five persons to the immediately available posts in various projects in different districts, with respondent no.5, Vishal Dahiya, having been kept at serial no.1 in the waiting list.

Today, learned counsel for the said respondent has filed a written statement and has submitted that in fact the said respondent also having been appointed on the same date, in a different project altogether in a different district, i.e. Bhiwani, with the petitioner having been appointed in Panchkula, the selection cannot be held to be for the same posts, all appointments being independent of each other.

Whereas factually appointments to different places under the same project, with possibly even different schemes existent in different districts (under the same project), may otherwise have been possible by independent selections for each particular district/scheme, however, the

selection in question having taken place by a common process, in which the petitioner undoubtedly scored the highest marks, with respondent no.5 having scored the least marks amongst all those who were appointed vide the said order dated 26.05.2014, in the opinion of this Court it does not lie in the mouth of respondent no.5 to say that his appointment was on a completely independent basis, unrelated to the selection of the petitioner. This is especially so, to repeat, because respondent no.5 was placed in the waiting list and was appointed only upon it being discovered (possibly even on the same date), that another such appointment was required in District Bhiwani.

Hence, if for any reason somebody was to be removed pursuant to such appointments having been made, it would have been the person who had scored the least marks and had in fact been placed in the waiting list initially before his appointment, and not the person who had scored the highest marks.

It is to be further noticed at this stage that learned counsel for respondent no.5 has submitted that the petitioner is incharge of the monitoring cell at the Head Office in Panchkula, whereas the kind of work respondent no.5 is doing at Bhiwani is of a wholly different nature and therefore, there is no parity of posts between them.

On the other hand, when the Registrar had been summoned to this Court on 07.07.2017, he had specifically made an offer that the petitioner could either continue under the current project up till 31.03.2018, which is the tenure of the project, or he could be offered a place in another

project which would be coming up in Rewari, in another two to three months.

Learned counsel for the petitioner having been put a query on that date, had submitted that since the project in Rewari is still to commence and therefore is uncertain, the petitioner would like to continue at the current project.

Keeping in view the aforesaid circumstances, I see no reason why the petitioner should be removed from service. If anyone at all has to be removed, on account of funds not having been received for the project or for any other reason, other than the misconduct etc. of the petitioner, it would be the person who scored the least marks, i.e. respondent no.5.

Consequently, this petition is allowed and it is directed that the petitioner be reinstated at the place where he was working and if necessary thereafter if there is no work available on that particular post he be posted to a place where such work exists, and if it is necessary that any person has to be removed from the project, it would be the person who had scored the least number of marks in the selection process, i.e. respondent no.5, who was initially put on the waiting list.

It is made clear that no specific direction is being issued by this Court to remove respondent no.5 from the post that he is working on, and if of course he can be adjusted, either where he is working itself, or any where else, without disturbing the petitioner for the period of his contractual appointment at least, (for the period that he was originally appointed), obviously such adjustment would be made by the respondents.

Since the petitioner has been removed wholly arbitrarily by the respondents, he being at serial number one in the merit list prepared by them, he would be entitled to damages by way of the entire salary that he has lost for the period from the date of his termination till the date of his reinstatement, plus ₹5000/- over and above the said salary.

(AMOL RATTAN SINGH)
JUDGE

July 18, 2017
Sunil Devi

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No