

CWP-7277-2011 (O&M)

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

CWP-7277-2011 (O&M)

Date of Decision : 11.05.2017

Daya Nand Yadav

..... Petitioner

Versus

Financial Commissioner and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Jai Vir Yadav, Advocate and
Mr. Tapan Kumar Yadav, Advocate
for the petitioner.

Mr. Jagbir Singh, Advocate for
Mr. Styawan Ahlawat, Advocate
for respondents No. 2 and 3.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has prayed for issuance of directions to the respondents to consider and appoint the petitioner as Welder in the respondent-Corporation.

Brief facts of the case are that the petitioner was taken on as apprentice in the Haryana Roadways Engineering Corporation Limited, Gurgaon on 21.10.2008. As per the averments during the training he suffered an injury as a result of which he lost one finger and thumb of his left hand.

On 08.08.2013, the following order was passed:

"The petitioner having suffered 25% disability during his apprenticeship as a Welder with respondent No.2

Corporation, counsel for respondent No.2 would confirm whether the petitioner could be adjusted against any vacancy regular or adhoc, considering the case of petitioner compassionately as he had suffered injury during the course of apprenticeship or whether he could be assured preferential treatment at the time of filling up the vacancies on account of his disability.

Counsel for the petitioner will also refer to the provisions of any Statute to satisfy this court that the petitioner has got some enforceable right of preferential employment.

Adjourned to 23.10.2013."

The allegation of the petitioner is that that injury was caused because he was illegally asked to work on a machine on which he was not given training. According to the respondents the injury was caused due to the negligence of the petitioner but that particular facet need not detain us further.

The claim of the petitioner is that he should be appointed to a regular post. The learned counsel for the petitioner has raised two pleas. The first is that notwithstanding whose fault it may have been, the fact remains that the petitioner suffered a serious injury while he was undergoing training and on that account the respondent-Corporation is bound to consider his case sympathetically for appointment. This argument is denied by the respondent-Corporation, again on the premise that the petitioner suffered injury because of his own negligence, and in any case, there is no provision in the Recruitment Rules for giving an appointment to the petitioner on this ground. The second ground raised by learned counsel for the petitioner is that as per Section 22 of the Indian Apprenticeship Act

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it is not illegal for the respondent-Corporation to make some provisions for absorbing the persons who have successfully completed apprenticeship against regular jobs. Counsel for the respondents have accepted that there is no prohibition but state that there is no such policy.

In my opinion, this petition must fail in view of the order dated 8.8.2013 and the arguments raised by counsel for the respondents.

It is however clarified that this order is not intended to give any finding on the issue whether the injury caused to the petitioner was as a result of the negligence of the respondent or his own negligence and the petitioner would of course be at liberty to seek any remedy in accordance with law.

In the circumstances, petition stands dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

May 11, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No