

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

Civil Writ Petition No.24999 of 2013

Reserved on: 07.12.2017

Decided on : 20.12.2017

Raj Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

G.S. Sandhawal, J.

The petitioner seeks quashing of the show cause notice dated 30.10.2013 (Annexure P-1) issued by respondent No.3, whereby a decision has been taken why his services be not terminated as Clerk under BC-A Category.

The ground for issuance of the show cause notice for his termination taken by the said respondent is that the respondent-Commission vide letter dated 11.09.2013 had intimated the said respondent that the petitioner had made a wrong claim regarding his marks obtained in the matriculation, which was 386 marks. The claim had been made out of 500 marks, whereas actually it was out of 600 marks. Resultantly, his merit was adjusted and he has secured lesser marks than the last selected candidate in his category and, therefore, his services were proposed to be dispensed with.

It is a matter of record that against the said show cause notice, reply dated 06.11.2013 (Annexure P-3) has been filed by the petitioner.

In the written statement filed, the respondent No.2-Commission has taken the plea that he had applied for the post of Clerk against Advertisement No.1/2008 in Category No.1 under BC-A Category and indicated that he had obtained 386 marks out of 500. Resultantly, his marks had been counted as per the criteria and he had found place in the selected list and his name had been recommended for appointment. As per the condition of the advertisement, the eligibility of the candidates can be adjudged at any stage i.e. prior to selection or even after the selection and, therefore, as per the calculation out of 600 marks his merit came down to 55.31 out of 90 marks against the last selected candidate in his category, who had secured 60.38 marks in the main selection. The candidate in the wait list also had secured 58.01 marks and, therefore, he does not come within the select list. Resultantly, it has been demonstrated that if calculation has been made out of 500, his merit comes out to 62.78 marks as per the criteria fixed and if it is done out of 600 marks his merit drops to 55.31 marks which is below the last selected candidate in his category and he would not fall within the main selection list or in the wait list. It has further been averred that he was informed vide order dated 08.01.2014 (Annexure R-2/1) regarding this aspect. Admittedly, the said order has not been challenged by the petitioner.

The State in its reply admitted that the petitioner was appointed as Clerk and he was under probation for a period of 2 years and his services were liable to be terminated as per the recommendations of the respondent-Commission. There is a specific clause in the letter issued

by the respondent-Commission dated 10.02.2012 (Annexure R-1) that the documents of the selected candidates could be checked and verified before they were allowed to join their duties. The said clause reads as under:-

“The selected candidates have not been medically examined and no special enquiry into their antecedents been made. The documents pertaining to their qualification, experience, age and caste/category, as claimed by them in the application form may please be got checked/verified from the issuing authorities before they are allowed to join their duties. A copy of the appointment letter issued to the candidates may also be endorsed to the Commission.”

It is, accordingly, also pleaded that as per the calculation the petitioner does not come within the zone of consideration.

Keeping in view the above pleaded facts, which have not been controverted by filing any replication, it is apparent that the Commission fixed a criteria as such to select the candidates. As per the calculation of the merit and the procedure prescribed, the percentage of the marks obtained in the matriculation examination was accordingly taken into consideration. It was rectified, as the petitioner had lower percentage on the basis of which his merit had reduced. Once the correct criteria is applied, his merit has accordingly dropped and in such circumstances he does not come within the zone of consideration. His matriculation certificate (Annexure P-4) would go on to show that he had shown 386 marks out of 500 marks whereas actually he had got 386 marks out of 600 marks.

In such circumstances, the petitioner fails to make the cut

and he cannot be a beneficiary of the incorrect details submitted. The action of the respondents as such in issuing show cause notice and, thereafter, recalling his appointment order as such cannot be faulted in any manner. As noticed his representation dated 06.11.2013 (Annexure P-3) has also been rejected by communicating the order dated 08.01.2014 (Annexure R-2/1) to him, which has also not been challenged.

Accordingly, there is no merit in the present writ petition and the same is dismissed.

20th December, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No