

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.23544 of 2014
Date of Decision:-23.01.2017.

Neeraj Kumar

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S. Maanipur, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

- 1.) In the present petition, the petitioner has questioned the order of termination dated 5.11.2014 vide Annexure P-10.
- 2.) The petitioner is stated to be Ex-Serviceman who was a candidate for the post of Junior Engineer in BPS Govt. Medical College for Women. He was selected and appointed on 12.11.2012 to the post of JE (Electrical). Pursuant to the same, he has reported for duty on 16.11.2012.
- 3.) On 28.10.2014, respondent No.2 proceeded to issue show cause notice as to why the petitioner's services shall not be terminated for want of necessary equivalent qualification. The petitioner has obtained Electrical Mechanic (Power) qualifying course during the period from 8.9.1997 to 7.3.1998 issued by INS Valsura (Jamnagar) (Indian Navy) vide Annexure P-
5. The petitioner submitted that pursuant to Annexure P-4 read with

Annexure P-5 the petitioner had the equivalent qualification. Therefore, the respondents' action is illegal and arbitrary. It was further submitted that the petitioner has not been provided ample opportunity to explain his version to the notice dated 28.10.2014 for the reasons that notice dated 28.10.2014 is directing him to appear on the very same day at 2.00 p.m. Had the respondents given ample opportunity to the petitioner, he would have in a position to explain in what manner, the course certificate he has undergone from the Indian Navy and which is equivalent to that of qualification prescribed for the post of JE (Electrical).

4.) On the other hand, learned counsel for the respondents submitted that the petitioner cannot improve the things even if ample opportunity is given for the reasons that the petitioner did not fulfill the requisite qualification prescribed for the post of JE (Electrical). Hence, there is no infirmity in the notice as well as order of termination dated 5.11.2014.

5.) Heard learned counsel for the parties.

6.) Short question for consideration is whether the petitioner fulfilled the requisite qualification for the post of JE (Electrical) or not? Perusal of Annexure P-4 and P-5, the petitioner has made out a *prima facie* case to contend that he had equivalent qualification. Admittedly, the petitioner has not been provided ample opportunity to say his version relating to equivalent qualification for the post of JE (Electrical). If necessary opportunity is given, he is in a position to explain before the competent authority and on the ground for not giving ample opportunity as is evident from the notice dated 28.10.2014, Annexure P-10 termination

respondents are directed to issue fresh show cause notice within a period of 3 months from today and after receipt of reply to the show cause notice, the respondents are directed to pass a speaking order within a period of one month thereafter. For the intervening period the petitioner is entitled to service and monetary benefits like salary. The respondents are directed to pay arrears of pay for the period from 5.11.2014 till reinstatement within a period of three months from today.

7.) Accordingly, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

January 23, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.