

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26657 of 2014

Date of Decision:14.07.2017

Ct/GD Jitendra Singh ... Petitioner

Vs.

Union of India and others ... Respondents

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

Present : Mr. Anuj Aggarwal, Advocate for the petitioner.
Mr. Parminder Singh Kanwar, Advocate for the respondents.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has assailed order dated 14.09.2012 (Annexure P-7) by which his candidature to the post of Sub Inspector has been rejected while assigning the reason that petitioner had non qualifying service to the extent of 37 days Leave Half Pay (LHP) w.e.f. 24.11.2010 to 30.12.2010 with no leave salary.

Eligibility conditions for Sub Inspector/LDCE and other posts are prescribed as under:

a.	Service Eligibility	:	They should have completed four years of service, including basic training
b.	Upper age and Educational Qualification	:	The upper age limit for appearing in the LDCE will be 32 years. The required education qualification will be graduation, which is also the eligibility for DR Sis.
c.	Clean record	:	They should have maintained good ACRs of last four years and should have unblemished service records till the issue of offer of appointment.
d.	Physical standards	:	As applicable to SI/DE candidates
e.	Medicalcategory	:	SHAPE-I

In this background, the petitioner's case is required to be considered for the purpose of selection and appointment to the post of

Sub Inspector.

Learned counsel for the petitioner submitted that non-qualifying service to the extent of 37 days leave half pay for the period from 24.11.2010 to 30.12.2010 with no leave salary is beyond his control as he met with an accident. The official respondents have regulated the period on 15.3.2010 vide Annexure P-4. Therefore non-consideration of petitioner's name for appointing him to the post of Sub Inspector is unfair. In view of these facts and circumstances whether the petitioner is entitled to seek quashing of rejection of his candidature to the post of Sub Inspector with reference to Annexure P-7 is the question. He further submitted that having regard to the eligibility conditions, petitioner's service record is upto mark with reference to Clause-C of eligibility condition (Annexure P-5). Therefore, non qualifying service of 37 days would not be a hurdle. It is also submitted that eligibility condition for the purpose of disqualifying a candidate, one of the condition is not relating to non qualifying service. Therefore, with reference to non qualifying service rejecting the petitioner's candidature to the post of Sub Inspector is highly arbitrary and illegal so also contrary to the eligibility condition stipulated in Annexure P-5.

Per contra, learned counsel for the respondents vehemently contended that clean record includes non qualifying service. Undisputedly, the petitioner had non qualifying service to the extent to 37 days which falls under the clause of Clean record for the purpose of selection and appointment to the post of Sub Inspector. Therefore, there is no infirmity in rejecting the petitioner's candidature for the post of Sub Inspector. Thus, the petitioner has not made out a case so as to interfere with the order dated 14.09.2012 (Annexure P-7).

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether non qualifying service to the extent of 37 days for the period from 24.11.2010 to 30.12.2010 would be a hurdle for selection and appointment of the petitioner to the post of Sub Inspector or not?

Perusal of eligibility condition (Annexure P-5), it is evident that in respect of clean record it does not speak of qualifying service is one of the ineligibility to participate in the process of selection and appointment to the post of Sub-Inspector. That apart non qualifying service to the extent of 37 days has been regulated by the official respondents on 15.3.2011 (Annexure P-4).

In view of the above facts and circumstances, reasons assigned in rejecting the candidature of the petitioner for selection and appointment to the post of Sub Inspector vide order dated 14.9.2012 (Annexure P-7) is hereby set aside. Respondents are hereby directed to consider petitioner's candidature for the post of Sub Inspector. If petitioner is successful in the ensuing selection process in that event petitioner be appointed notionally from the date of non-consideration with all service benefits.

Accordingly, petition stands allowed.

14.07.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No