

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.24598 of 2017
Date of Decision: October 31, 2017

Sanjay Kumar

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Ajay Singla, Advocate,
for the petitioner.

AMIT RAWAL, J.

1. The petitioner (applicant before the Central Administrative Tribunal, Chandigarh) has invoked the extraordinary writ jurisdiction of this Court challenging the order dated 19.11.2015 (Annexure P-9) passed in O.A.No. 060/01080/2014 and the order dated 25.1.2016 (Annexure P-11) dismissing the Review Application No.060/00004/2016, whereby his claim for setting-aside the selection/appointment of respondent No.4 (respondent No.3 before the CAT) as Technician Grade-IV (Cane-Man) with a further direction to appoint him as Technician Grade-IV (Cane-Man) consequent upon grant of prayer, has been rejected.

2. Mr.Ajay Singla, learned counsel appearing on behalf of the petitioner submitted that respondent No.2-Post Graduate Institute of Medical Education & Research, Chandigarh (for short "PGIMER") caused an advertisement dated 18.9.2012, whereby online applications for

recruitment of various posts, including the post of Technician Grade-IV (Cane-Man) were called, for which there were three posts and out of which one post was under un-reserved category, one post for Scheduled Caste Category and another for OBC category. The prescribed qualification for the post of Technician Grade-IV (Cane-Man) was as under:-

Sr.No.	Name of the Post	Qualification
3	Technician Grade IV (Welder) Post Code-TGW/043	10 th standard with ITI Certificate in the respective trade OR Matric with trade certificate from a recognized Institute Board or Authority with 5 years experience in respect of trades for which ITI Certificate/Training is not available.
4	Technician Grade-IV (Cane-Man) Post Code-TGCM/044	-do-

3. Regarding the prescribed age limit, it was stated in the advertisement letter that the same would be 18-30 years with 5 years age relaxation for Scheduled Caste category candidates. The last date of receipt of applications for determining the eligibility was 25.10.2012.

4. It was also argued that as per the matriculation certificate, the date of birth of the petitioner is 26.10.1977, therefore, he had completed the age of 35 years as on 25.10.2012 and, thus, was eligible for the aforementioned post. Vide letter dated 10/12.1.2013, the petitioner was asked to submit the documents for the said post, which were duly submitted. Vide notice dated 19.3.2013 (Annexure P-1), the petitioner was informed that he was declared ineligible for the said post being overage. In this regard, the petitioner submitted a representation dated 22.3.2013 (Annexure P-2), but the same was not considered by the respondents, which

constrained him to approach the CAT vide O.A.No.485-CH of 2013.

5. Vide interim order dated 17.4.2013, the competent authority was ordered to allow access to the petitioner to the relevant selection/promotion process. In compliance of the aforementioned order, vide letter dated 25.4.2013 (Annexure P-4), the petitioner was called for the interview. Respondent No.3 recommended selection of two candidates in the selection process conducted on 27.4.2013, i.e., (1) Anupam (PH) (UR) and (2) Varinder Hans (SC). Two candidates, namely, Des Raj (UR) and Sanjay Kumar (SC) (petitioner herein) were kept in the waiting list. Owing to the subsequent development which took place during the interregnum, the aforementioned Original Application was withdrawn with permission to file a fresh one with better particulars, which was allowed vide order dated 7.2.2014.

6. The learned counsel further contended that the petitioner challenged the selection and appointment of respondent No.4 through the Original Application filed before CAT. The stand of the authorities in the written statement filed before the CAT was that the petitioner did not possess the trade certificate from a recognized Institute or Board and in the absence of the same, his candidature was rejected. Resultantly, the CAT dismissed the Original Application. Even the Review Application was also dismissed. Thus, as per the prescribed qualification for the post of Technician Grade-IV (Cane-Man), the petitioner was matriculate and having more than 5 years experience as Cane-Man and was less than 35 years of age as on 25.10.2012.

7. The petitioner had submitted full time experience of 77 months in the Trade of Cane-Man, whereas respondent No.4-Varinder Hans was

having part-time experience from May 2002 to July 2010. The trade certificate is to be issued by the Board/Authority only if the course/training is available with the Institution, but in the present case, as per the information sought under the Right to Information Act, no such course in respect to the Cane-Man was offered by the Institute/Board/Authority. There is no such qualification of trade certificate from the recognized Institute, Board or Authority under any Statute for the Cane-man and despite that, the official respondents had earlier filled up the post of Cane-man right from the inception when the PGIMER, Chandigarh started functioning, but no Cane-Man with possession of trade certificate from recognized Board or Authority was appointed. In essence all appointments for the said post were made without trade certificate.

8. We have heard the learned counsel for the petitioner, appraised the paper book and are of the view that there is no force and merit in the submissions of the learned counsel for the petitioner. The eligibility condition as enumerated above, was never challenged by the petitioner before the CAT. The challenge to the appointment of respondent No.4 (respondent No.3 before the CAT), did not subsist, for, his services were terminated vide order dated 1.10.2015. However, there was no variance between the petitioner and official respondents before the CAT that there was no ITI Certificate/Training for the trade of Cane-man.

9. In view of the fact that there was no ITI certificate/Training for the trade of Cane-man, alternative qualification, i.e., the candidate should be matric with trade certificate from a recognized Institute, Board or Authority with 5 years experience was required to be fulfilled. It could not be controverted that the petitioner-applicant did not possess this requisite

alternative qualification. Learned counsel for the petitioner was unable to give any example or name of any person or order of appointment to establish that the persons without the trade certificate have been appointed to show discrimination. In the absence of the challenge to the eligibility condition, the petitioner cannot be permitted to urge that there was no need of trade certificate.

11. For the reasons stated above, we do not find any illegality or perversity in the impugned orders. No ground for interference is made out. Writ petition stands dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**October 31, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No