

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9658-1999 (O&M)
Date of Decision:-15.02.2018.

Rajiv Mohan

.....Petitioner

Versus

Bhakra Beas Management Board and others

.....Respondents

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

Present: Mr. Ashok Aneja, Advocate for the petitioner.

Mr. Karan Nehra, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

CM-2223-CWP-2018

Affidavit of Special Secretary, BBMB and copy of the 1994 Regulations for BBMB Class-III and Class-IV Employees and copy of the minutes of the meeting of Centralized Staff Selection Committee held on 22.02.1999 are taken on record.

CM stands allowed subject to all just exceptions for the reasons stated in the application as well as affidavit.

CWP-9658-1999

In the instant writ petition, petitioner has challenged selection and appointment of respondent Nos.3 to 5 to the post of Junior Draftsman.

Official respondents advertised 7 posts of Junior Draftsman on 8.8.1996 and

further re-notified on 5.5.1998. Pursuant to the said Notification, amongst

petitioner and contesting respondents were candidates for the post of Junior Draftsman. Respondents issued a public notice vide Annexure P-6 wherein they have laid down a criteria that the persons trained earlier will be treated as senior to the persons who trained later. In between trained apprentices preference be given to those who are senior. The claim of the petitioner is that he has acquired apprenticeship during the period from 28.11.1983 to 27.11.1984, whereas, respondent Nos.3 to 5 have acquired partially apprenticeship training in the year 1994 and earlier to 1994. Therefore, claim of the petitioner is pursuant to Annexure P-6. He is entitled for preference over and above respondent Nos.3 and 5 with reference to seniority in acquisition of apprenticeship. Thus, the official respondents have not given preference to the petitioner over and above respondent Nos.3 to 5.

(2.) *Per contra* learned counsel for the respondents submitted that having regard to the merit of the case, petitioner is lower in merit than respondent Nos.3 to 5. Question of giving preference to a person who has acquired apprenticeship earlier and he being senior could be considered only as and when 2 candidates have acquired equal marks. Admittedly, petitioner has secured 18.4 marks, whereas, respondent Nos.3, 4 and 5 have secured 30, 28.4 and 26.01, respectively. Therefore, petitioner's claim is not in accordance with the merits.

(3.) Heard learned counsel for the parties.

(4.) Crux of the matter in the present petition is whether petitioner has any statutory right pursuant to Annexure P-6 for the purpose of claiming preference over respondent Nos.3 to 5 only on the score that he has acquired

giving a preference that too by means of executive order. In other words, whatever, the prescribed qualification for the post of Junior Draftsman like matriculate or its equivalent possesses recognized diploma/certificate in the Draftsmanship is required to be taken into consideration irrespective of acquisition of apprenticeship or not. In other words, by means of an executive order official respondents cannot impose any qualification contrary to rules unless and until rules/regulations are amended in respect of Junior Draftsman to the extent that Senior trained apprentices would be given preference. Thus, petitioner has not made out a right to claim any preference over and above respondent Nos.3 to 5 only on the score that he had acquired apprenticeship in the year 1983-84 whereas, respondent Nos.3 to 5 partly acquired the apprenticeship in the year 1994. Thus, petitioner has not made out a case.

Accordingly, petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

February 15, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.