

CWP no. 13617 of 2015 (O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no. 13617 of 2015 (O&M)

Date of Decision : 07.03.2018

Mahender Singh

....Petitioner(s)

Versus

Central Administrative Tribunal, Chandigarh and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJBIR SEHRAWAT

Present : Mr. R.K.Malik, Sr.Advocate with
Ms. Rimple Sohi Kadyan, Advocate for the petitioner(s)

Mr. Namit Kumar, Advocate for respondent

MAHESH GROVER, J.(ORAL)

The instant petition is directed against the order of the Tribunal.

The petitioner applied in response to an advertisement for the post of Gramin Dak Sewa Branch Post Master in the year 2007. He was at Sr.No.5 amongst the five candidates selected on merit. Three of the candidates who were above the petitioner at Sr. Nos. 1, 2 and 4 declined job leaving only one person above him namely Naresh Kumar at Sr. No.3. A complaint followed against the said incumbent that his documents were fabricated whereupon an inquiry was initiated establishing suspicion regarding the documents submitted by said Naresh Kumar and contemplating further verification but instead of doing so the said incumbent was offered the appointment on 25.11.2008. Subsequently the claim of Naresh Kumar was found to be suffering from deficiency of bogus

documents leading to his termination whereupon he filed an application before the Tribunal resulting in a restraint order which remained alive for almost two years before the application was dismissed on 13.11.2013. Consequently, Naresh Kumar's services were finally terminated on 11.12.2013 whereafter the petitioner made several representations pressing his claim as he was the sole candidate left in the field.

The respondents denied appointment to the petitioner on the ground that number of years have passed and the waiting list period stand extinguished.

The Tribunal negated the plea resulting in the present writ petition.

We have heard learned counsel for the parties. The stand of the respective parties is largely based on what has been noticed above and therefore, need not be repeated. During the course of proceedings before this Court we had inquired of the respondents as to whether the vacancy against which the petitioner had applied still remains unfilled and in response thereto information has been given that the vacancy still subsists but the respondents express their difficulty of offering employment to the petitioner after all these years, particularly when the life of the waiting list had expired.

Looking at the afore-said facts in totality, we are of the opinion that the respondents were clearly in the wrong when they offered employment to said Naresh Kumar despite knowing the fact that his credentials were suspicious and his claim was based on bogus/fabricated documents. There is no justification for this. If the respondents were alive to

resulting in a denial of a legitimate benefit that would flow to the petitioner. Had such a course not been adopted, the petitioner would have certainly been in the saddle by now.

Consequentially, we are of the opinion that it is the respondents who have invited a situation to the detriment of the petitioner which needs to be rectified and we would have no hesitation in mandating the respondents to immediately offer employment to the petitioner subject to the condition that he fulfills all other conditions that may be required, particularly, when the vacancy still subsists.

Petition stands allowed.

It is made clear that no monetary consequences shall flow to the petitioner but his appointment would relate back to the date of appointment of Naresh Kumar.

(Mahesh Grover)
Judge

(Rajbir Sehrawat)
Judge

07.03.2018	
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No