

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: March 08, 2018

1) *C.W.P. No. 2225 of 2016 (O&M)*

Dheeraj Singh Gurjar

... Petitioners

vs.

Union of India and others

... Respondents

2) *C.W.P. No. 7620 of 2016 (O&M)*

Chandra Shekhar Sharma

... Petitioner

vs.

Union of India and others

... Respondents

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

Present: Mr. Arun Nehra, Advocate,
for the petitioners.

Mr. K.K. Chahal, Advocate,
for respondents no.1 to 3 and 5.

Mr. Indresh Goel, Advocate,
for respondent No.4.

P.B. Bajanthri, J. (Oral)

1. By this common order, both the aforementioned civil writ petitions i.e. CWP Nos. 2225 and 7620 of 2016 are being decided together as similar facts are involved in both the petitions. However, for brevity, facts have been taken from CWP No. 2225 of 2016.

2. In CWP No. 2225 of 2016, petitioners have challenged the validity of termination order dated 01.10.2015 (Annexure P/9).

3. In CWP No. 7620 of 2016, petitioner has challenged the validity of termination order dated 01.10.2015 (Annexure P.4).

4. Petitioners were candidates for the recruitment to the post of Constable (General Duty). They were selected and appointed. While working as such, respondents noticed that petitioners were stated to have misled the selecting authority in respect of identifying themselves to be a domicile of a particular State for which they were not. Therefore, their services have been terminated on 01.10.2015. Hence, the present petition.

5. Learned counsel for the petitioners submitted that selection and appointment to the post of Constable (General Duty) cannot be restricted to state-wise or region-wise as it is in violation of Articles 14 and 16 of the Constitution. It was further submitted that petitioners have not misled the selecting authority so as to enter into service during the selection. That apart it was pointed out that before order of termination, competent authority was required to comply rule 17 of the Border Security Force Rules, 1969 (hereinafter referred to as the "Rules, 1969") to the extent of giving opportunity to show cause against the proposed action of termination.

6. Per contra, learned counsel for the respondents submitted that petitioners have misled the selecting and appointing authority in respect of domicile of the respective State. Consequently, even if a notice is issued to the petitioners, things may not change as petitioners belong to other than the State for which the posts were advertised. In view of these factual aspects, petitioners have not made out a case.

7. Heard learned counsel for the parties.

8. Short question for consideration in the present petition is whether before passing order of termination dated 01.10.2015, competent authority has complied rule 17 of Rules, 1969 or not?

Respondents have not disputed relating to compliance so also it

is evident from order of termination dated 01.10.2015. In view of these facts and circumstances, order of termination dated 01.10.2015 is set aside. Consequently, petitioners are entitled to service benefits from the date of termination till date. The respondents were permitted to take appropriate action in accordance with rule 17 of Rules, 1969, if it is warranted.

9. Both the aforementioned petitions i.e. CWP Nos. 2225 and 7620 of 2016 stand allowed.

March 08, 2018

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**[P.B. Bajanthri]
Judge**

Whether speaking / reasoned : Yes

Whether reportable : No