

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.25906 of 2015

Reserved on :20.12.2017

Date of decision:10.01.2018

Neetu

....Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Suresh Ahlawat, Advocate, for the petitioner.

Mr.Harish Rathee, Sr.DAG, Haryana.

Mr.Kirpal Singh, Advocate, for

Mr.Abhilaksh Grover, Advocate, for respondents No.2 & 3.

G.S. SANDHAWALIA, J.

Petitioner seeks quashing of the order dated 23.11.2015 (Annexure P-9) whereby her representation dated 07.07.2014 (Annexure P-7) for appointment to the post of Clerk was rejected. She, accordingly, seeks direction to grant her appointment to the post of Lower Division Clerk, according to her educational qualification of B.Com, in terms of the policy decision, in place of the offer which had been made to her of Assistant Linesman.

The reasons given for rejecting her representation by the respondents is that her name was shown in the list of candidates who were eligible for admission to ITI and assurance letter dated 31.01.2014 for the post of Assistant Linesman was given to her, on the ground that she would successfully complete her course. She did not complete her ITI course for the reasons attributable to her and therefore, her enrollment in B.Com was at her own instance and therefore, she was not held entitled for appointment to the post of Clerk.

Counsel for the petitioner has vehemently submitted that the petitioner having qualified to the post of Clerk having done her graduation, should have been considered for appointment to the said post. She was entitled for appointment on the strength of the fact that more than 2 acres of the agriculture land of the family of the petitioner was acquired and therefore, on that strength, the claim was based for appointment against a particular post.

It is not disputed that the acquisition of the land was done and in view of the policy framed by the Government to provide employment to the family members, the legal right, as such, accrued. It is the case of the respondents that Aravali Power Company Private Ltd. (APCPL) had executed the work of the power Plant at Jharli, District Jhajjar, where the land of the petitioner's family had been acquired. However, as per the terms and conditions of offer, regular appointment to the land oustees who were Matriculate or 10+2, was to be given with the condition that the services would be regularized after completing ITI training course, to be sponsored by APCPL.

The requirement of the ITI was specific need based arrangement which was to be made in nearby ITI located at Matanhail, Jhajjar and remaining 50-60 persons who were Graduates and for whom APCPL was having no suitable jobs, they were to be provided employment by other Haryana Power Utilities. The list had, thus, been divided into 2 categories, i.e., persons entitled for employment and persons entitled to employment after doing ITI course. The name of the

petitioner had been shown in the list whereby she was entitled for employment after doing the ITI course. She had been admitted in August, 2013 and was, accordingly, given an assurance letter dated 31.01.2014 (Annexure P-2) in compliance of the policy.

It was, in such circumstances, it is argued by counsel for the respondents that the offer was conditional and therefore, the claim for appointment to the post of Clerk in place of Assistant Linesman, could not be acceded to.

It is a matter of record that the petitioner was shown in the list of eligible candidates for admission to the ITI and she was also enrolled, accordingly. As per the policy decision, a stipend was to be paid to the students of ITI of Rs.6580/- per month plus dearness allowance @ 90%, to be borne by APCPL. The offer of appointment was, thus, conditional and rather, vide letter dated 31.01.2014 (Annexure P-2), it was specified that if she was not able to complete the course within the specified time-frame, she was to be considered for employment for the post of peon/helper in Class IV category. The concession, thus, which was given on account of the acquisition of land was on the basis that the respondents were requiring a person with technical qualifications who were residing in the nearby vicinity. The petitioner had, at the initial stage, taken admission.

A perusal of Annexure P-1 would also go on to show that 83 land oustees out of 104 had taken admission with the ITI and 21 did not take admission due to unwillingness, qualifications and age issue. The

expense for the education was also, thus, to be paid by the APCPL apart from the stipend which was to be given. The offer of appointment was, thus, conditional and it was not at the will of the petitioner, as such, to switch lines and claim for any post merely on the fact that she possessed B.Com degree. The petitioner has no such vested legal right whereby she can claim public employment and choose the post that she wishes to be appointed against. The offer was a mere concession which was given as per the terms of the announcement of the Chief Minister and as per the policy framed. Once the petitioner herself violated the terms of the offer, she cannot claim any such legal vested right for appointment to a different post, as per the terms of her qualifications which she acquired. In such circumstances, the order which has been passed by the respondents, rejecting her representation, does not suffer from any legal infirmity which would warrant interference by this Court under Article 226 of the Constitution of India.

Resultantly, finding no merit in the present writ petition, the same is hereby, dismissed.

10.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No