

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

* * * * *

CWP No. 24687 of 2017

Date of decision : August 07, 2018

* * * * *

Satyavir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

* * * * *

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

* * * * *

Present: Mr. Sunil K. Nehra, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

* * * * *

RITU BAHRI, J.

The petitioner is seeking quashing of the order dated 8.6.2012 (Annexure P-7) vide which office of the Director, Elementary Education, Haryana Panchkula withdrew the offer of appointment given to candidates who had not joined their duties.

Pursuant to the recommendation of the Haryana Staff Selection Commission, the petitioner was appointed on the post of DPE Master vide appointment letter dated 6.3.2011 (Annexure P-1). In the order (Annexure P-7), the name of the petitioner figured at Sr. No.7 Merit No.175 in the subject of DPE under BC-B category. He could not join his duties as he was convicted by Judicial Magistrate First Class, Rewari on 8.3.2011 in FIR No.6 dated 13.1.2004 registered at Police Station Rampura, District Rewari

under Sections 420, 467, 468, 471, 201 and 120-B IPC and was sentenced to undergo rigorous imprisonment for a period of three years vide order of sentence dated 10.3.2011. After his conviction, he was acquitted by the Court of Additional Session Judge, Rewari vide judgment dated 7.11.2016 (Annexure P-2). After his acquittal on 7.11.2016, the petitioner submitted a representation dated 8.2.2017 (Annexure P-3) to the District Elementary Education Officer, Rewari that since he has been acquitted on 7.11.2016, he be allowed to join on the post of DPE Master. In this regard, District Elementary Education, Rewari wrote a letter dated 14.3.2017 (Annexure P-4) to the Director Elementary Education, Haryana seeking guidance in the matter. In this regard again a reminder dated 17.4.2017 (Annexure P-5) was sent by the District Elementary Education Officer, Rewari to the Director Elementary Education Haryana. Thereafter vide letter dated 28.6.2017 (Annexure P-6), issued by the Director Elementary Education Haryana to the District Elementary Education Officer, Rewari, it was conveyed that the appointment of the petitioner has been cancelled vide order dated 08.06.2012 (Annexure P-7) of the Directorate. The petitioner is seeking setting aside of the order dated 08.06.2012 (Annexure P-7) on the ground that after his acquittal he has a right to be appointed as no further regular selection has been done on the post on which he had been selected. He has referred to a judgment passed by this Court in the case of ***Dharam Pal vs. State of Haryana and others*** (CWP No. 15319 of 2012) decided on 25.4.2016 (Annexure P-8) on the proposition that by giving public notice of 15 days period, offer of appointment cannot be taken away.

On notice, written statement has been filed on behalf of respondents no. 1 & 2, wherein a stand was taken that the Haryana Staff

Selection Commission (respondent no.3) send its recommendation dated 12.1.2011 for the post of DPE and other subjects. In the recommendation by the HSSC 202 candidates were recommended including the waiting list. In this recommendation, the name of the petitioner was at Sr. No/Merit No.175. It was clarified in para 6 of the recommendation that the candidates selected in the waiting list should not be considered against the fresh vacancies and the validity period of the list shall be one year from the date of issuance of this letter. After counseling, appointment letter dated 06.03.2011 (Annexure P-1) was also issued to the petitioner with certain conditions and he was allotted Govt. Sr. Sec. School, Sharanwas, Rewari. There was a specific condition to the effect that they will be allowed to join duty after verification of character antecedents. On verification of character antecedents of the petitioner, it came to the notice of the respondents that Sh. Satyavir Singh was convicted by the judgment dated 8.3.2011 and sentenced vide order dated 10.3.2011 by the Judicial Magistrate first Class, Rewari in Criminal Case in FIR No.6 dated 13.1.2004 under Sections 420, 467, 468, 471, 201, 120-B IPC registered at Police Station Rampura. In view of his conviction, he was not allowed to join his duties on the post of DPE. As per the State Government Instructions issued dated 20.1.1988, the main list as well as waiting list shall remain valid for a period of one year from the date of recommendations. The list of remaining candidates, if any, after one year would be scrapped and if any further demand is received by the Board, it would process the matter afresh and make further recommendations. It was further stated in the reply that in ***Dharam Pal's case (supra)***, the petitioner had participated in selection for the post of Science Master under the General Category.

Subsequently, he came to know through a letter dated 12.6.2012 that he has been duly selected under the Outstanding Sports Person (General Category) and even the result of the petitioner was declared in the Outstanding Sports Persons (General Category) in which the petitioner had never applied. The writ petition was contested and was allowed vide judgment dated 25.4.2016 (Annexure P-8). However, the facts of the present case and ***Dharam Pal's case (supra)*** are totally different. In this case, the petitioner was not allowed to join duty because of his conviction. Thus, the petitioner was not entitled to get any benefit on the basis of judgment passed in the ***Dharam Pal's case (supra)***.

In the present case, the letter of appointment was withdrawn on 8.6.2012 and the petitioner was acquitted vide judgment dated 7.11.2016 (Annexure P-2). Hence, offer of appointment was rightly withdrawn keeping in view his conviction on 8.3.2012 and after his acquittal, he could not get any benefit of the selection list as the validity of the waiting list is only one year and even that was elapsed as per the Instructions dated 20.1.1988. In ***Dharam Pal's case (supra)***, the petitioner applied for the post of Science Master under the General Category and the result was declared on 7.10.2011 in the newspaper, wherein in the general category, the roll no. of the petitioner was not shown either in the list of successful candidates or even in the waiting list candidates. However the respondents vide selection list dated 12.1.2011 showed the name of the petitioner in the main select list of Outstanding Sports Persons (General Category at Merit No. 597 in the newspaper on account of non-availability of suitable candidates in a particular category in accordance with Chief secy to Government of Haryana Instructions contained in letter dated 07.10.1998.

The petitioner came to know about it vide letter dated 12.6.2012, whereby he was informed that he was offered appointment vide various letters and a public notice was also given in Amar Ujala on 22.12.2011 and 24.12.2011 whereby he along with other candidates was asked to report for duty at the respective schools within 15 days but since the petitioner did not reach the office, his appointment letter was withdrawn with immediate effect. The petitioner immediately approached the authorities by giving representation dated 22.6.2012. The writ petition filed by the petitioner was allowed by observing that the petitioner had no occasion to see his result in the mains select list of Outstanding Sports Persons (General Category) as he was not aware about the Instructions dated 07.10.1988. The Department should have informed the petitioner personally by sending him letter that he had been selected in Outstanding Sports Persons (General Category) in view of Instructions dated 07.10.1988. However, in the present case, the petitioner was not allowed to join his duties because of his conviction and hence by the impugned order dated 8.6.2012 (Annexure P-7), the offer of his appointment was rightly withdrawn.

In view of all that has been discussed above, there is no merit in the writ petition and the same is hereby dismissed

August 07, 2018

ritu

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No