

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Writ Petition No. 26133 of 2017 (O&M)
Date of Decision: 24.04.2018**

Chhamber Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. D.R. Sharma, Advocate
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab
for respondent No. 1/State.

Mr. K.S. Hissowal, Advocate for respondent No. 2.
(Punjab Scheduled Castes Land Development & Finance Corporation)

Mr. J.P.S. Sidhu, Advocate
for the **applicant**/proposed respondent No. 3
(CM No. 3725 of 2018)

JASWANT SINGH, J. (ORAL)

Petitioner (Chhamber Singh) possesses the qualifications of B.A B.Ed. M.A. (Punjabi) and Bachelor of Library Science. He was selected and appointed on 19.12.2016 (**Annexure P-3**) as 'Sweeper' by the Punjab Scheduled Castes Land and Finance Corporation, pursuant to the advertisement No. 1/2016 (**Annexure P-1**). On a subsequent complaint that his (petitioner) selection was in violation of the condition that for the post of 'Sweeper', a candidate was required **'NOT TO POSSESS QUALIFCATIONS HIGHER THAN 10+2'**, therefore, his appointment was illegal based on the misrepresentation and fraud committed by the petitioner, while concealing and mis-stating in his Self-Declaration Form (**Annexure P-5**) attached alongwith his application form.

Apprehending termination from services, the petitioner filed the present writ petition, challenging the condition in advertisement (P-1), whereby the restriction of possessing of higher qualification above 10+2 was imposed.

This Court, while issuing notice of motion on 22.11.2017, had passed the following order:-

*“ Petitioner applied for the post of Sweeper (Group 'D') post in response to an advertisement dated 01.08.2016 (Annexure P-1) issued by the Punjab Scheduled Castes Land Development and Finance Corporation. The essential qualifications prescribed for the post of Sweeper was **“Primary Pass with knowledge of Punjabi.”***

Petitioner having successfully negotiated the selection process was issued appointment letter dated 19.12.2016 (Annexure P-3) and in pursuance to which he duly joined on the post of Sweeper and is continuing to serve till date.

Clause 14 of the appointment letter stipulated that services of the petitioner would be governed by the rules and regulations of the Corporation and Punjab Government from time to time.

It is pleaded that the petitioner possesses the qualifications of 10th, 10+2, B.A., B.Ed., M.A.(Punjabi), Bachelor of Library Science. The instant writ petition has been filed raising an apprehension that services of the petitioner would be terminated in the light of a stipulation contained in the advertisement itself and which reads in the following term:

“The candidates with qualifications up to 10+2 will only be considered for posts at Sr. No.5 & 6 and the candidate has to submit self attested declaration of higher qualification possessed by him/her and submit it to PSCFC Cell, Thapar University, Patiala along with the printed application form.”

Submits that the post of Sweeper fell at Sr. No.06 and such stipulation would be operated to the detriment of the petitioner as he possesses qualifications higher than 10+2.

The precise argument raised by counsel is that possessing qualifications higher than the minimum prescribed for a post cannot be treated to be a disadvantage and a handicap for holding the post.

Notice of motion, returnable for 14.03.2018.

In the meanwhile, services of the petitioner would not be dispensed with only on the ground that he possesses higher qualifications than the minimum prescribed for the post of Sweeper. ”

During the pendency of the present petition, a show cause notice has been issued to the petitioner for termination of services.

This Court, vide order dated 02.04.2018, in view of the aforesaid circumstances, had allowed a civil miscellaneous application bearing **CM No. 3726 of 2018**, filed by the private applicant/proposed respondent No. 3 (Jagdev Singh), seeking vacation of the interim order dated 22.11.2017.

At the time of hearing today, counsel for the petitioner, on instructions from his client, prays for **unconditional withdrawal of the present writ petition** and counsel for the respondents have no objection in this regard.

Dismissed as withdrawn.

Since the main case has been decided/dismissed as withdrawn, therefore, no orders are required to be passed in the pending miscellaneous application(s), if any, and accordingly, the same stand(s) disposed of.

April 24, 2018

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>