

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

CWP No. 2559-2019

Date of decision : 31.01.2019

Sanjay

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suneel Banga, Advocate
for the petitioner.

Ms. Palika Monga, DAG Haryana

RITU BAHRI, J. (Oral)

Petitioner is challenging the order/letter dated 19.12.2018 (Annexure P-10), whereby he has not been allowed to join on the post of Multipurpose Health Worker (Male) and his appointment to the said post has been cancelled. Initially, the petitioner was given 15 days' time to join. Thereafter, vide notice dated 22.11.2018, he was asked to join within 10 days. Learned counsel for the petitioner contends that these letters were not received by the petitioner in time, and after receiving letter dated 06.09.2018 (Annexure P-11), he immediately made a representation dated 26.12.2018 (Annexure P-12).

Learned State counsel has produced the letter dated 07.01.2019 received by the department on 11.01.2019 from the petitioner wherein he has stated that vide letter dated 06.09.2018 (Annexure P-11), he was informed that he was selected for the post of Multi Purpose Health Worker and on 22.11.2018 he was given 10 days time again to join but he showed his inability due to the reason that firstly he had to give his resignation in

the earlier department i.e Transport Department where he was working and the process of resignation would take 5-7 days. Learned State counsel submits that the impugned order had already been passed on 12.09.2018. The letter dated 11.01.2019 is taken on record as Annexure A-1.

Heard learned counsel for the parties.

Similar issue has been considered in a case of ***Mohd. Irfan Ansari v. State of U.P and others, 2014 (4) ADJ 437*** wherein the petitioner was issued appointment letter dated 26.03.1988 for the post of Deputy Superintendent of Police. The petitioner received the communication on 04.04.1998 and was required to join on 20.05.1998. The petitioner sought another six months to join as decided to appear in All India Services Examination but no orders were passed. His appointment was cancelled on 01.09.1998. The order was challenged and the impugned cancellation order was set aside and the petitioner was allowed to join on 15.10.2002 for training. Thereafter, the petitioner again approached the Court seeking direction to the respondents to provide appointment when his other batch mates were appointed i.e 20.05.1998 with consequential benefits but the writ petition was dismissed.

Even though the petitioner has taken time to inform the department that it will be tough for him to join on time but this time cannot be taken against him. The petitioner had applied for the above post pursuant to advertisement dated 19.06.2015 (Annexure P-1) and thereafter, the department declared the result on 05.08.2018 (Annexure P-8). The petitioner was issued appointment letter dated 06.09.2018 (Annexure P-11) and was given 15 days time. Thereafter, vide notice dated 22.11.2018, he was asked to join within 10 days but since the petitioner was already

working in the Transport department, he sent a letter dated 07.01.2019, which was received by the department on 11.01.2019 that he be given 5-7 days to join but the department already passed the impugned order by cancelling his appointment letter. The impugned order should not have been passed as the petitioner had gone through the selection process from 2015 till 2018 and now just because of the reason that he is unable to join on time, his appointment letter should not have been cancelled. The department itself has given extension of time to the petitioner to join, vide notice dated 22.11.2018. Thereafter, the petitioner sent a letter dated 07.01.2019 after passing of impugned order seeking 5-7 days more time to join as he has not given resignation to his earlier department.

Keeping in view the fact that the petitioner has successfully cleared the written examination, scrutiny of documents and interview/viva voce by putting in all the hard work and now just because of one inadvertent mistake of correspondence/communication, the petitioner should not suffer.

In view of the above factual position, this petition is being allowed and order/letter dated 19.12.2018(Annexure P-10) is set aside. A direction is issued to respondents to allow the petitioner to join on the post of Multi Health Worker (Male), within a period of two weeks from the date of receipt of certified copy of this order.

31.01.2019

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No