IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8953 of 2019 (O&M)
Date of Decision.17.09.2019

Parveen ...Petitioner

Vs

State of Haryana and others ...Respondents

2. **CWP No.9439 of 2019 (O&M)**

Ram Pal ...Petitioner

Vs

State of Haryana and others ...Respondents

3. **CWP No.9046 of 2019 (O&M)**

Sahdev Sharma ...Petitioner

Vs

State of Haryana and others ...Respondents

Present: Mr. H.K. Aurora, Advocate
for petitioner in CWP No.8953 of 2019.

Mr. Manoj Makkar, Advocate
for petitioner in CWP No.9046 and 9439 of 2019.

Ms. Shruti Jain Goyal, DAG, Haryana.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of three writ petitions bearing Nos.8953, 9046 and 9439 of 2019 where identical question of law and facts are involved. The facts are being enumerated from CWP No.8953 of 2019.

In the present case, respondent-Department caused an advertisement dated 24.04.2016 for filling up posts of Instructors in various trades on contract basis in the Department of Industrial Training, Haryana. As per roster, 14 posts of Diploma/Degree and 6 posts of ITI/CTI were advertised. The essential qualification for the post of Craft Instructor

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(Carpenter) as per Appendix B of the Industrial Training Department, Haryana Field Offices (Group C) Service Rules, 2013 and according to the statement of counsel appearing for the petitioner and as well as averments made in the writ petition is, that a person should possess National Trade Certificate/National Apprenticeship Certificate in the relevant trade with Craft Instructor Training Course in the relevant trades with five (5) years practical/teaching experience including the training period and should also studied Hindi/Sanskrit upto Matric standard or higher education.

Petitioners being aspirants and claiming themselves to be fully eligible applied for the aforementioned posts under various categories like General Category, Scheduled Caste etc. Reliance has been laid to the various certificates (Annexure P-5 colly), scheduled caste certificate (Annexure P-6), Haryana resident certificate (Anenxure P-7) as well as experience certificates (Annexure P-8 colly).

Learned counsel appearing on behalf of the petitioners submitted that on the basis of the educational qualification, experience and training certificate, merit list of all the eligible candidates for the post of Carpenter (Contractual Instructor ITI/CTI) was put on the website of the Department and even objections were also invited. After receiving the objection, merit list was corrected and final merit list was prepared. Names of petitioners figured in the merit list of the candidates under ITI/CTI. Accordingly, petitioners along with similarly situated candidates were called for interview for the purpose of verifying the original certificates/documents and were issued appointment letters, however, the recruitment process stopped midway, owing to interim direction passed in Civil Writ Petition bearing No.21132 of 2016 but later on the writ petition

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vide order dated 17.01.2018 (Annexure P-10) was dismissed. The remaining recruitment process on the basis of instructions of the Government was cancelled by the respondents, which was assailed in this Court vide CWP No.21920 of 2018. The aforementioned writ petition vide order dated 26.10.2018 was allowed and respondents were directed to issue appointments to the persons, who were selected in the merit list pursuant to the advertisement. The aforementioned order was challenged in the LPA No.30 of 2019 but the Letters Patent Bench gave liberty to the respondents that in case of requirement of the services of the Instructors, it shall be the discretion of the State Government to make appointment on contractual basis from amongst persons, therein, in accordance with the merit list prepared for the period till regularly selected candidates are available. In pursuance to aforementioned liberty, respondents initiated recruitment process by causing public notice in the newspaper on 26.02.2019 (Annexure P-14) and on 08.03.2019 (Annexure P-15) appointment letters were issued. But vide impugned order dated 26.03.2019, services of petitioners were terminated, which is not sustainable in the eyes of law, for, there is no adherence to principles of natural justice.

Nature of job, work and responsibility of Craft Instructor (Carpenter) either for the degree/diploma holder or for NTC/NAC or CTI are the same. It is on that account, petitioners were issued appointment letters against posts reserved for degree/diploma holder candidates.

Per contra, Ms. Shruti Jain Goyal, DAG, Haryana submitted that once Directorate acquired knowledge that petitioners have been wrongly selected on the posts of Carpenter Instructors reserved for diploma/degree on contract basis, delinquent employees were ordered to be

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charge sheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016 and the departmental action is in process. Reliance has also been laid to charge sheet (Annexure R-2).

Original record has also been shown to the Court, photocopy of which after examination was retained i.e. proceedings of the committee having undertaken the task of scrutiny of documents for contractual recruitment of Carpenter Trade Inspectors on contractual basis (ITI/CTI). As per the aforementioned report, total candidates as per the merit list of ITI/CTI were 18 and for scrutiny of documents 16 appeared, which fact is fortified from the signatures of candidates dated 18.01.2017 including the post sanctioned for Carpenters holding diploma/degree as well as ITI/CTI. As per the record under the trade ITI/CTI two posts were of General Category, one for Scheduled Caste , one for BCA, one for ESM SC and one for ESM BCB, total six. Appointments have been issued to four, one converted from ESM SC and one from ESM BCB category. Total were 10, whereas, excess appointment under ITI/CTI were 2+2=4. By pointing out factual position, Ms. Shruti Jain Goyal, DAG, Haryana submitted that error found after few days of issuance of appointment letters vide impugned order was rectified, thus, urges this Court for dismissal of writ petitions.

I have heard learned counsel for parties and appraised the paper book. Records shown to this Court reveals that total candidates as per the merit list of ITI/CTI were 18 and for scrutiny of documents only 16 appeared, which fact is fortified from the signatures of candidates dated 18.01.2017 including the post sanctioned for Carpenters holding diploma/degree as well as ITI/CTI. As per the record under the trade ITI/CTI were two posts of General Category, one post for Scheduled Caste ,

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one post for BCA, one for ESM SC and one for ESM BCB, total six (6). Appointments have been issued to four (4), one converted from ESM SC and one from ESM BCB category. Total were 10 whereas excess appointment under ITI/CTI were 2+2=4. Officials, who were involved in obtaining the proposal for filling up posts from ITI/CTI qualified candidates under the degree/diploma course have been charge sheeted vide charge-sheets (Annexure R-1 collectively). Concededly, the petitioners are holders of ITI/CTI certificate and not diploma/degree holders. For all intents and purposes, they applied under different trades of ITI/CTI, however, the appointment letters had been issued under diploma/degree holders wherein total were 14 posts and only 3 have been filled and as per application, 11 posts of diploma/degree and 1 post of ITI/CTI are lying vacant.

It is settled law that any error occurred can be rectified immediately and there cannot be any grievance for compliance of principle of natural justice, for, no vested right had accrued in such a short span. No ground for interference is made out.

All writ petitions are dismissed.

Learned State counsel pointed out that owing to interim order, petitioners preferred three contempt petitions wherein Coordinate Bench of this Court while disposing of the contempt petitions gave following directions:-

> *"The Director General, Haryana Skill Development and Industrial Training, Panchkula was ordered to remain present in Court, to inform this Court as to who would be the official from whom, the amount paid to the petitioners without getting any work would be recovered.*

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Mr. R.C. Bidhan, Director, Deptt. Of Skill Development and Industrial Training, Haryana states that the matter would be looked into and defaulting officer would be pinpointed and the payment made to the petitioner from 05.04.2019 till 29.08.2019 would be recovered from the said official/officers.

In view of the above, contempt petitions are disposed of. However, compliance report in all the three petitions with regard to the action taken against the defaulting officers/officials would be filed in Court within three months from today."

Since I have already dismissed the writ petitions and delinquent officials have been charge-sheeted, it would be open to the department to give effect to directions given in the contempt or not.

(AMIT RAWAL)
JUDGE

September 17, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No

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