

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

CWP No. 18613 of 2016 (O&M)

Date of decision : April 03, 2019

Pawan Kumar

...Petitioner

versus

Punjab State Agricultural Marketing Board and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Anil Mehta, Advocate for
Mr. Pankaj Jain, Advocate
for the petitioner

Mr. Parambir Singh, Advocate,
for respondents No. 1 to 3

Mr. Baltej Singh Sidhu, Advocate
for respondent No. 4

ARUN MONGA, J.

The present writ petition has been filed, *inter alia*, for issuance of writ in the nature of *certiorari* for quashing the order dated 16.08.2016 (Annexure P-11), passed by Respondent No. 2, whereby, Resolution dated 24.12.1999 (Annexure P-1), promoting the petitioner as Clerk and Auction Recorder, respectively, have been withdrawn and consequently, he has been reverted to the post of Peon.

2. Brief factual matrix of the case is that the petitioner was appointed as Peon with Respondent No. 3, which is a feeder cadre for the promotional post of Clerk. Vide Resolution dated 24.12.1999 (Annexure P-1), the petitioner, along with respondent No.4-Iqbal Singh, were promoted as Clerks. Respondent No. 4 made a frivolous complaint against the petitioner to Respondent No. 1, wherein, it was alleged that the matriculation certificate of the petitioner was not from a recognized

institution. In pursuance thereof, directions were issued by respondent No. 1 to get the same verified. The petitioner submitted the verification report dated 31.07.1998 (Annexure P-3 colly). Consequently, the case was filed.

3. Another similar complaint was made in the year 2003, which was inquired into by the Sub Divisional Magistrate, Muktsar and the certificates were found to be genuine. However, the petitioner was then reverted to the post of Peon, vide Communication dated 03.11.2013 (Annexure P-6), enforcing the Resolution of the respondent-Board. The petitioner challenged the said Resolution, by filing CWP 7847 of 2006 in this Court. Vide an interim order of stay dated 22.05.2006 (Annexure P-7), granted by this Court, the petitioner was reinstated as Clerk and was also given all arrears as were due to him. The writ petition was, therefore, withdrawn vide order dated 01.05.2008 (Annexure P-8).

4. The petitioner was promoted as Auction Recorder, vide Resolution dated 21.11.2008 (Annexure P-9). However, in the year 2014, an anonymous complaint was made to the Chairman, Punjab Mandi Board, Chandigarh again raking up the issue of allegedly fake matriculation certificate. The reply filed by respondent No. 3 to the said complaint stated that this issue had already been inquired into twice and hence, no further inquiry was necessary and hence, should be filed. Despite this, the petitioner was again reverted to the post of Peon, vide impugned order dated 16.08.2016 (Annexure P-11). Hence the present writ petition.

5. It is averred that even though the complaint, regarding matriculation certificate, submitted by him at the time of joining as Peon with the respondent-Board, was looked into twice at various levels and the report was that the said certificate is genuine, still the petitioner has been reverted to the post of Peon. The repeated complaints made on same

allegations by anonymous persons shows malice against the petitioner.

6. Learned counsel for the petitioner contends that at no point of time, was the petitioner served a show cause notice and was never made part of any of the inquiries conducted by the respondents, which is against the principles of natural justice and thus in violation of Article 14 of the Constitution of India.

7. In the written statement filed on behalf of Respondent No. 1 to 3, it has been averred that the petitioner did not possess the requisite qualification for the post of Clerk under the Punjab State Agricultural Marketing Board (Class III) Service Rules, 1989. It is stated that the matriculation certificate, as was supplied by the petitioner, is issued by the Central Board of Higher Education, which is not a recognized Board under the Rules, *ibid*. Also the fact that the petitioner again wrote matriculation examination conducted by the Punjab School Education Board in the year 2005, shows that the petitioner was aware that he did not possess the correct qualification. Under these circumstances, the present writ petition deserves to be dismissed.

8. Respondent No. 4, by his separate written statement, has stated that the minimum educational qualification, for the post of Clerk and also Auction Recorder, is passing Matriculation Examination with at least 50% marks, as per the service rules applicable. He states that the petitioner did not possess the same and hence, was ineligible for the said posts. He reiterates the averments made by Respondent No. 1 to 3 in their written statement that, the Central Board of Higher Education, which had issued the Matriculation Certificate of the petitioner, was not a recognized Board. This was verified by Central Board of Secondary Education (CBSE), Chandigarh, vide letter dated 22.07.1998 (Annexure R-4/1). CBSE had

even advised that action may be taken against the petitioner. The respondent-Board was also intimated regarding the same vide letter dated 11/12.08.1999 (Annexure R-4/2).

9. It is further averred by respondent No. 4 that the petitioner, in the year 2003, vide application dated 17.12.2003 (Annexure R-4/4), had sought permission from respondent No. 3 to appear in matriculation examination to be conducted by Punjab School Education Board (PSEB), Mohali to be held in March, 2004. The petitioner then appeared in the said examination vide Roll No.227795, but could not qualify the same. The Detailed Marks Card for the said Roll Number is provided, which is annexed herein as Annexure R-4/5. It is stated that any person, having valid Matriculation Certificate, would not appear, for a second time, to qualify the same examination.

10. I have heard the counsels for the respective parties and gone through their respective pleadings.

11. I am in agreement with the stand taken by the respondents. A bare perusal of the Punjab State Agricultural Marketing Board (Class III) Service Rules, 1989 and the documents placed on record by respondent No. 4, clearly show that the petitioner did not possess the necessary qualification for the posts of Clerk and Auction Recorder. The Central Board of Higher Education, which is stated to have issued the Matriculation Certificate of the petitioner, cannot be said to have been a recognized Board as per the rules and as verified by CBSE, Chandigarh. The petitioner cannot be said to have approached this Court with clean hands.

12. The fact that the petitioner sought permission and also appeared in the Matriculation Examination conducted by PSEB, Mohali in

the year 2004 also raises questions as to the genuineness of his claim in the present petition.

13. The argument of the learned counsel for the petitioner that the petitioner was not made a party to any inquiry and was not heard is also devoid of merit. The complaints regarding his matriculation certificate were inquired at various stages and it cannot be said that he had not been given an opportunity of being heard. He had approached this Court earlier, challenging the Resolution, whereby, he was reverted to the post of Peon, which was withdrawn. After the issue being agitated 2/3 times in different forums, it cannot be said that the petitioner was not heard.

14. In view of my discussion above and the reasoning contained therein, the present writ petition stands dismissed.

15. No order as to costs.

April 03, 2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No