

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 18215 of 2017(O&M)

Date of Decision: 16.09.2019

Dr. M.S. Sachdeva

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Argued by : Mr. R.K. Arora, Advocate
for the petitioner.

Mr. Naresh Khepar, Advocate for
Mr. Abhinav Gupta, Advocate
for respondent No.1-UOI.

Mr. Dhiraj Chawla, Advocate
for respondents No.2 and 3.

ARUN MONGA, J.

1. The petitioner, who was appointed as Physiotherapist and Acupuncturist, on contract basis in Cantonment Board General Hospital, Jalandhar, *inter alia*, is aggrieved against an order dated 11.08.2017 (Annexure P-14) vide which he was discharged from his contractual service.

2. The respondents had advertised said post of Physiotherapist and Acupuncturist on 20.08.2017 vide Annexure P-23, for which petitioner was found ineligible on account of his being over-age. Since the petitioner had already rendered uninterrupted service with respondents with effect from 01.08.2008, vide order dated 06.09.2017 my brother P.B. Bajanthri, J (as then then was of this Court), passed the following order:-

“The petitioner is stated to be appointed as a Physiotherapist and Acupuncturist in the Cantonment General Hospital, Cantonment Board, Jalandhar Cant under 3rd respondent. The

respondents have advertised the post of Physiotherapist and Acupuncturist for which the petitioner is ineligible on the score that he is over age. Since the petitioner is rendering service from 1.8.2008, therefore, respondents are hereby directed to relax age and permit him to participate in the process of selection to the post of Physiotherapist and Acupuncturist pursuant to the advertisement dated 20.8.2017. Petitioner be subjected to selection process, subject to result of this petition. The petitioner shall not be displaced until finalization of on going process of selection.”

3. Backed with above order, petitioner participated in the selection process, but was not selected despite relaxation of age. Respondent No.4 herein secured 55.6 marks and stood first in the said selection process. By according the benefit of her merit, she was appointed as full time Physiotherapist and joined the service on 13.09.2017. It was in these circumstances that services of petitioner were dispensed with.

4. Having heard the rival contentions and on perusal of the contents of the writ petition along with relevant record appended thereto, I am of the view that there is no scope of interference in exercise of extra ordinary jurisdiction vested under Article 226 of the Constitution of India by this Court.

5. The conceded position that emerges from a conjoint perusal of the pleadings is that petitioner unsuccessfully participated in the selection process. He is, therefore, estopped from challenging his discharge from service. Particularly, the admitted position being that he was hired on contractual basis and, therefore, cannot complain that his services have been displaced by recruiting a regular employee instead of contractual employee and that too by following the due procedure of law. Even otherwise, it is settled position in law that a candidate is estopped to challenge the selection

process after having unsuccessfully participated in the same.

6. In view of the discussion above and reasoning contained therein, the writ petition is dismissed.

7. No order as to costs.

(ARUN MONGA)
JUDGE

September 16, 2019

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1. Whether speaking/ reasoned: Yes/ No

2. Whether reportable: Yes/ No