

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-19224-2017 (O&M)
Date of decision :08.04.2019

Ramesh Kumar

...Petitioner(s)

versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.S. Khehar, Advocate for the petitioner.

Mr. D.S. Nalwa, Addl. A.G., Haryana.

RITU BAHRI, J. (Oral)

The petitioner is seeking direction to the respondents to appoint him to the post of PTI pursuant to the direction given by this Court in **CWP-10634-2012** (Annexure P-8) whereby his writ for appointment to the post of PTI was allowed on 24.04.2015 with all consequential benefits and no LPA was filed against this judgment.

Learned counsel for the parties have clarified today that order dated 29.03.2016 (Annexure P-14) was in the knowledge of contempt court when the contempt petition was disposed of.

Learned counsel for the respondents, on merits, has argued that even if the post was vacant on the day when **CWP-10634-2012** (Annexure P-8) was allowed i.e. on 24.04.2015, as per the RTI information, the petitioner had no right to be appointed as PTI keeping in view that as per the notification dated 05.07.2007 (Annexure P-1), the post has to be first taken out of the purview of the general selection process.

Even this argument of learned counsel for the respondents is liable to be rejected. A perusal of para 4 of the notification dated 05.07.2007 (Annexure P-1) shows that out of 119 applicants, appointment

letters were issued to 114 applicants on 26.07.2011 on their respective posts and these posts thereafter were deleted from the general selection process. On a specific query put by this Court today, learned counsel for the respondents has clarified that before the appointment letters were issued on 26.07.2011, there was no decision to take out these posts from the purview of the general selection process and after giving them appointment, these posts were deleted from the regular recruitment process of the Dakshin Haryana Bijli Vitran Nigam Ltd. ('DHBVNL' in short) and Haryana Power Generation Corporation Limited ('HPGCL' in short). Hence the case of the petitioner cannot be declined on the ground that the post of PTI which was vacant when the **CWP-10634-2012** (Annexure P-8) was allowed, had to be taken out of the purview of the regular selection process. A perusal of the judgment (Annexure P-8) further shows that petitioner was duly qualified to be appointed to the post of PTI as he was matriculate as per notification dated 04.04.1991. Moreover keeping in view the Hydel School Bhudkalan, Yamuna Nagar, is still existing after being taken over by the HPGCL, as is evident from order dated 29.03.2016 (Annexure P-14), the post which was vacant as on 24.04.2015 at the time of allowing the **CWP-10634-2012** (Annexure P-8) was available with the respondents after 29.03.2016 (Annexure P-14). The petitioner being duly qualified has a right to be appointed as PTI as there was no procedure to identify this post before offering this appointment to a person whose land has been acquired for setting up of Rajiv Gandhi Thermal Power Plant.

The State has chosen not to file any written statement to the order dated 04.07.2018 keeping in view that the land has vested in the Corporation and they are bound by the notification dated 05.07.2007 (Annexure P-1).

This writ petition is being allowed and appointment letter to the post of PTI be issued to the petitioner within a period of four weeks from the date of receipt of certified copy of this order and this Court be informed of the order passed. Since *CWP-10634-2012* (Annexure P-8) has attained finality and no LPA has been filed by the respondents, notional fixation of pay w.e.f. 24.04.2015 without arrears of salary be released to the petitioner.

08.04.2019
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No