

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

1. CWP No.24510 of 2016 (O&M)

Sukhjeet Singh and another ... Petitioners

Versus

Punjab State Power Corporation Ltd. and others
... Respondents

2. CWP No.29 of 2017 (O&M)

Sukhjeet Singh and another ... Petitioners

Versus

Punjab State Power Corporation Ltd. and others
... Respondents

Date of Decision:19.9.2019

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.P.S.Khurana, Advocate for the petitioners

Ms. Meena Bansal, Advocate
for respondents no.1 & 2

Mr.Arun Bansal, Advocate for respondent no.3

RAJIV NARAIN RAINA, J.

1. This order will dispose of CWP Nos.24510 of 2016 and 29 of 2017 as common questions of law and fact are involved in both the writ petitions. However, for the sake of convenience, relevant facts are taken from CWP No.24510 of 2016.

2. This is a petition for issuance of writ of quo warranto directing the respondents to disclose before this Court as to under what

authority of law respondent no.3- Yogita Sharma is holding the post of Junior Sports Officer in the respondent-PSPCL since respondent no.3 is alleged to be not eligible for the said post as also the said post is stated to be not a sanctioned one as per law and thereby to remove her from the post and revert her to the original post of Lower Divisional Clerk on which she worked before her appointment.

3. The cause of action goes back to the year 2009, but these petitions have been filed in 2016 and 2017 after much delay without properly explaining laches. As per the written statement filed by the PSPCL one post of Junior Sports Officer was advertised by notice CRA No.1/2009 against the newly created post of Junior Sports Officer which was created vide Office Order No.298/IR Estb. dated 10.12.2009. Respondent no.3 was appointed on the post of Junior Sports Officer under that advertisement. By the same Order No.298, a post of Head Store-Keeper in the pay scale of Rs.5300/9100 and a post of Lower Division Clerk in the pay scale of Rs.3480/6500 under the Deputy Director, Patiala have been abolished and one post of Junior Sports Officer in the pay scale of Rs.5400-9100 was created. Vide Order No.299, respondent no.3 was appointed with the approval of the competent authority. It is also brought out in the written statement that petitioners have intentionally made a wrong translation of relevant Office Order No.298/IR Estb. Dated 10.12.2009 which when corrected would change the complexion of the case. In the translation of the petitioner, it is written: "This order has been issued for the approval of the competent authority" whereas it should be read as "This order has been issued with the approval of the competent authority". The entire meaning has been changed to suit the petitioners. As such the

appointment of respondent no.3 was made vide Office Order No.299 dated 10.12.2009.

4. Respondent no.3 had 10 years experience at that time as Coach/Manager/Trainer and 8 years participation in game on the Board's Team and she fulfilled all the conditions for appointment as Junior Sports Officer and as such she was selected. There was only one vacancy and therefore, advertisement was made for only one post. The post of Junior Sports Officer was created by surrendering the two posts i.e. Store Head Keeper and LDC after taking approval from the competent authority who is the administrative member competent to grant approval.

5. Respondent no.3 has filed her response. She has taken an objection that the appointment was made in the year 2009 and this writ petitions has been filed in the year 2016 i.e. after seven years of delay after the selection process was completed and the petition is hopelessly barred by time. The petitioners have prayed for quashing of her selection and appointment and for her removal from the post of Junior Sports Officer by a writ of quo warranto.

6. It is argued on behalf of the private respondent that writ of quo warranto is not the proper remedy as the petitioner has sought a writ of prohibition against the holding of office by the 3rd respondent. Besides, the petitioners have no locus standi to maintain the petition since they were neither eligible nor qualified and the first petitioner had not even applied for selection in pursuance to advertisement CRA No.1/2009. Not having participated in the selection process, they cannot challenge the appointment of the 3rd respondent. Respondent no.3 objects that petitioner no.1- Sukhjeet Singh had not participated in the

selection process. He is not eligible and qualified. His game is “Cycling” which is not included in the list of All India Sports Control Board i.e. the game not approved as per Sports Policy followed by the respondent-Department. Petitioner no.2-Kuldeep Kaushal, though participated in the selection process, but he was not considered suitable by the Committee at that time. As such they do not possess sufficient locus to challenge the selection process and that too after a lapse of 7 years of the selection having been completed. Respondent no.3 further submits that the petitioners have failed to implead one Sarabjit Singh who was selected and appointed alongwith the answering respondent in pursuance of the said advertisement. Sarabjit Singh was recruited as Junior Sports Officer on the only post available and respondent no.3 on an additional newly created post. Respondent no.3 says that Sarabjit Singh was not eligible and qualified to hold the said post. She has questioned the appointment of Sarabjit Singh stating that he has never studied in a University and is only higher secondary qualified. He could not have participated at any inter University level championship which is the basic requisite minimum qualification for this post. Sarabjit Singh has never participated in any State level Tournament except a Zonal tournament. Other reasons have been assigned which need not be gone into since there is no challenge to the appointment of Sarabjit Singh in the petitions and the averments of respondent no.3 in this regard are superfluous as far as the prayer for quo warranto is concerned. Petitioner no.1 was never a claimant to the post under the advertisement and petitioner no.2 was an unsuccessful candidate. The latter cannot be heard to challenge the selection. There no reason given to explain the delay of 7 years in approaching this Court and the writ petitions are thus highly belated and

deserve to be dismissed on grounds of delay and laches. If a civil suit would have been filed by the petitioners, it could have been barred by limitation. If the suit is barred by limitation, the writ petition is also barred.

7. Quo warranto is a high prerogative writ and an extraordinary remedy against a rank usurper of public office. Junior Sports Officer is a minor post on which an incumbent does not perform public dealing charged with decision making authority affecting the lives of citizens. Quo warranto is thus an inappropriate remedy for the post of Junior Sports Officer, and, I would have held as much to defeat the petition altogether on this sole ground, even if there was no delay or laches involved in approaching this Court. Personal grievances are not to be ventilated in proceedings of quo warranto. The petitioners are employees of PSPCL and they cannot be said to be personally aggrieved even for the purpose of proceedings of Certiorari and Mandamus jurisdiction exercised under Article 226 of the Constitution of India. They have no discernible locus standi to question the appointment of the 3rd respondent. The PSPCL and respondent no.3 have shown to this Court the authority under which orders were passed and under which the third respondent has been appointed as Junior Sports Officer. Accordingly, it is not necessary to go into the nitty gritty of the rules of service, creation of posts, qualifications etc. or the credentials of the 3rd respondent or of the petitioners. Moreover, no mala fides or bias is attributed or alleged against any Officer of the PSPCL in any of the decisions made regarding the appointment of the 3rd respondent.

8. In view of the above, I find no merit in both the writ petitions warranting interference in any of the writs, which are accordingly dismissed.

19.9.2019
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes