

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

CWP-802-2014 (O&M)
Date of decision : 08.05.2019

Surinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Akshit Aggarwal, Advocate,
for Mr. Sherry K. Singla, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The petitioner seeks quashing of impugned orders dated 10.09.2013 (Annexure P-11) and 17.12.2013 (Annexure P-14), passed by respondent No.2, whereby, the claim of the petitioner to the post of Assistant Librarian was declined.

It is submitted that vide advertisement dated 23.09.2009 (Annexure P-1), applications were invited for filling up of 316 vacancies of Assistant Librarian. The last date for filling up of online applications was 09.10.2009. The petitioner being fully eligible and qualified for the said post, submitted his online application under the Ex-serviceman (self) category. Thereafter, a provisional merit list was prepared and the petitioner was placed at serial No.3 in the Ex-serviceman (self) category

reflecting 47.32% marks. The petitioner participated in the counselling held on 07.05.2010 and produced all the relevant documents including the domicile certificate. However, on the objection raised with regard to the domicile certificate having been issued by the Army authorities, the petitioner procured another domicile certificate from the competent revenue authority i.e. the Tehsildar concerned, and submitted the same with the respondents on the same day. The same was duly accepted vide endorsement of Scrutiny Officer No.1. However, when the final selection list was prepared, the name of the petitioner was reflected at serial No.99 with the remarks 'Not Eligible (Domicile not attached)'. Feeling aggrieved, the petitioner moved representation dated 09.07.2011 (Annexure P-8) but the same was not considered. Thereafter, he approached this Court by filing CWP-1631-2013 which was disposed of vide order dated 25.01.2013 (Annexure P-9) with a direction to the respondents to consider and decide representation dated 09.07.2011 (Annexure P-8 herein) within two months. Respondent No.2 vide impugned order dated 10.09.2013 (Annexure P-11), rejected the claim of the petitioner on the ground that he had not produced the domicile certificate at the time of counselling. Hence, the instant petition.

Contents that the assertion of the respondents with regard to non-furnishing of valid domicile certificate at the time of counselling held on 07.05.2010 is against the record. He refers to scrutiny form (Annexure P-4), to contend that the scrutiny officer had duly accepted the domicile certificate on the same day. The stand of the respondents is also falsified

from the fact that the petitioner had also applied for the post of Library Restorer in pursuance to the same advertisement (Annexure P-1) and he was duly selected for the said post on the basis of his domicile certificate which was produced at the time of counselling on 09.07.2011.

On the other hand, learned State counsel submits that the petitioner did not submit a domicile certificate issued by the competent authority prior to the last date of submission of application, therefore, he was rightly declared ineligible. It is further submitted that the petitioner is claiming selection against the posts reserved for Ex-servicemen. However, as on the date of submission of application form, the petitioner was serving in the Indian Army, therefore, he is not eligible on this score as well.

Heard.

For the purpose of regulating the recruitment of Ex-servicemen in the State Civil Services and posts connected with the affairs of the State of Punjab, the government vide notification dated 02.02.1985 framed rules viz. The Punjab Recruitment of Ex-servicemen Rules, 1982 (for short, 'the Rules'). Rule 2(c) of the Rules define the term 'Ex-serviceman', which reads thus:-

“2(c) “Ex-Serviceman” means a person who joined any rank, whether as a combatant or as a non-combatant on or after the first day of November, 1962 in the Armed Forces of the Union, excluding the Assam Rifles, Lok Sahayak Sena, Jammu and Kashmir Military, Territorial Arms, Defence Security Corps and General Reserve, Engineering Force and has been released or discharged otherwise than on the grounds of misconduct

or inefficiency.”

Admittedly, at the time of submission of application, the petitioner had not been released or discharged from the Armed Forces and was still serving the Indian Army. To the contrary, the petitioner has attached a 'No Objection Certificate' purportedly issued by the concerned Commanding Officer on 24.09.2009 (Anneuxre R-II), certifying therein that the petitioner was being discharged from service w.e.f. 30.11.2010 after completing 24 years of service/terms of engagements. Thus, the petitioner could not be treated as an Ex-serviceman for the purpose of reservation in the State Services. That being so, he has rightly be considered as ineligible for selection to the post in question.

Dismissed.

08.05.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No