

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24774-2019 (O&M)

Date of Decision: 13.09.2019.

Rajinder Kumar Sachdeva

... Petitioner

vs.

State of Punjab and Another

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Raman Goklaney, Advocate
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J.(ORAL)

Inter alia, issuance of a writ the nature of *mandamus* and/or a direction, otherwise, has been sought herein commanding the respondents to allow the petitioner to appear in the written examination for selection to the post of President, District Consumer Dispute Redressal Fora in the State of Punjab, scheduled to be held on 08.09.2019 pursuant to the advertisement dated 14.12.2018 (Annexure P-1).

2. Succinct factual narrative first. The petitioner is a practicing Advocate At District Courts Ferozepur and Fazilka. Vide his application dated 22.01.2019 (Annexure P-2), he applied for the post of President, District Consumer Fora for the State of Punjab. However, his candidature was rejected on the ground that his application was received on 25.01.2019, which is after the last date of receipt of application i.e. 24.01.2019 till 5:00 P.M.

3. Before advertizing further, it would be apposite to reproduce relevant Clause-16 of advertisement governing the dispatch/receipt of the

applications:-

“The candidates shall dispatch their applications in quadruplicate such a manner so that the application complete in all respect reach in the office of Registrar, State Consumer Disputes Redressal Commission, Punjab, Dakshin Marg Sector 37-A, Chandigarh on or before 24.01.2019 upto 5:00 PM. Any application received thereafter due to postal delay or for any other reason, will be rejected and disentitle the candidate for call of interview.”

4. Upon notice, return has been filed by way of affidavit of Venna Bhardwaj, Registrar of State Consumer Disputes Redressal Commission, Punjab, on behalf of respondent No.2. Dismissal of the writ petition has been sought on the ground that the candidature of the petitioner has been rightly rejected in view of his not being diligent enough in sending his application before the time prescribed as per the cut off date i.e. 24.01.2019.

5. I have heard the rival contentions of the learned counsels and have perused the contents of the writ petition alongwith the relevant record appended thereto. No interference is called for by this Court in extraordinary writ jurisdiction vested under Article 226 of Constitution of India. Writ petition being devoid of merit, deserves to be dismissed.

6. It cannot be expected of a practicing Lawyer not to comprehend the unambiguous Clause-16, *ibid* which clearly stated that any application received after the time prescribed on the cut off date whether on the ground of postal delay or any other reason will be rejected and would disentitle the candidate to be called for interview. Petitioner was well aware that the cut off date is 24.01.2019 and yet he choose to dispatch his application by speed post on 22.01.2019, almost, on the nick of cut off time and date,

knowing fully well that he is located at Fazilka and the application is to reach Chandigarh which is about 275 to 300 kilometers away. Perhaps the petitioner may have been in two minds whether or not to apply. If not, then he was surely careless. This is kind of lackadaisical approach cannot be expected of a prospective judicial officer.

7. Be that as it may, the argument of learned counsel that delay is not attributable to the petitioner is not sustainable in the law, as the said issue is no more *res-integra*. Reference may be had to Full Bench judgment rendered by this Court in case titled as **Rahul Prabhakar vs. Punjab Technical University**, reported as **AIR 1998 (P&H) 18**. In the said Full Bench judgment, it has been held that:-

“time and date of receipt of application fixed in the prospectus/information/brochure has to be strictly adhered to and any application received after the last date fixed for the purpose, even through it had been dispatched well in time and the candidate was not to blame, is no ground for considering the candidate.”

8. Reliance placed by learned counsel for the petitioner on the Apex Court judgment rendered in **Ashutosh Agnihotri vs. High Court of Madhya Pradesh and another**, reported as **2017 (4) S.C.T 539**, is misplaced in view of the fact that in the said case, applicant/petitioner had applied well in advance i.e. on 10.01.2017 by speed post as against the cut off date being 20.01.2017. His application was received one day after the cut off date i.e. on 21.01.2017. Since the applicant/petitioner therein had dispatched his application well in advance as in normal prudence one would expect that 09 days are sufficient for the postal authorities to deliver the speed post. Accordingly, the benefit of delay by the postal authorities was given to the applicant/petitioner therein. That is not the case here.

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

13.09.2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No