

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25412-2019(O&M)
DECIDED ON: 16.11.2019

Raj Pal

.. Petitioner

Versus

Punjab National Bank & Ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. H.C. Arora, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

1. Challenge herein *inter alia* is to the order dated 29.04.2019 passed by the Disciplinary Authority inflicting the punishment of removal from service upon the petitioner.

2. The petitioner was appointed as Part Time Sweeper in the respondent Bank on 10.03.2014. The maximum qualification provided for the job was “Not passed 10th Class/ Standard”. It is stated that the petitioner, who was a Graduate concealed his higher education and secured job, leading to initiation of disciplinary proceedings followed by impugned order dated 29.04.2019.

2. Learned counsel for the petitioner has relied upon **Mohd. Riazul Usman Gani & Ors. Vs. District & Sessions Judge, Nagpur, 2000(2) RSJ 7** to contend that higher qualification possessed by a candidate cannot be taken to his/ her disadvantage.

3. Having heard learned counsel for the petitioner and perusing the enquiry report as also the impugned removal order, I am of the considered view that no interference is called for in exercise of extra ordinary powers under

Article 226 of Constitution of India.

4. The issue that an employer can legitimately prescribe the maximum educational qualification is no more *res integra*, as held by this Court in the case of **Pardeep Singh Vs. Punjab National Bank & Ors. 2019(4) 196 PLR 488**, wherein this Court, in somewhat similar circumstances, while relying on the later decision of Apex Court in the case of **Zahoor Ahmad Rather & Ors. Vs. Sheikh Imtiyaz Ahmad & Ors. 2019(2) SCC 404**, held a under:-

“12. Admittedly, the petitioner had completed his graduation (B.A.) in 2010. It is the specific case of respondent No.1 that if the petitioner would have disclosed on the date of application that he was a graduate, his candidature was liable to be rejected. I find substance in the contention of the learned counsel for respondent No.1 that while submitting his application for the post, the petitioner concealed the material fact of his having completed the graduation (passed B.A.) as he knew that its disclosure would render him ineligible to apply. The petitioner having been guilty of concealment of material facts going against him, while applying for the post in question, does not deserve the indulgence of this Court.

13. In Zahoor Ahmed Rather and others Vs. Sheikh Imtiyaz Ahmed and others, 2019(2) SCC 404, it was held as under:-

“23. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy.

Judicial review must read warily. That is why the decision in Jyoti KK must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti KK turned.”

14. In view of this legal position enunciated by the Hon'ble Supreme Court, it appears that the competent authority could legitimately prescribe the maximum educational qualifications as aforesaid. Further, this being the situation, the earlier judgment of this Court in Manjit Singh Vs. State of Punjab and others (supra) does not help the petitioner in the contention that his having completed the graduation did not affect his eligibility to apply and the claim herein for appointment to the post of peon.”

5. Not only this, advertng to the facts of case, a perusal of charge-sheet(Annexure P-4) would reveal that the educational qualification required for the post of Part Time Sweeper was “**Maximum not passed 10th Class/Standard**”. The petitioner has not disputed that he is possessing higher educational qualification(Graduation) than the maximum prescribed one and the factum thereof was not mentioned by him while applying for the post of Part Time Sweeper. The Enquiry Officer held him guilty of the charges on the basis of admission made by the petitioner. On account of concealing the factum of having higher educational status, he was rightly removed from the service vide the impugned order.

6. The ratio laid down in Mohd. Riazul Usman Gani's case is of no help to the petitioner, as it is not the case here where the petitioner is aggrieved of imposition of condition of maximum prescribed educational qualification and has challenged the same. The petitioner has been removed from service on account of guilty of concealment of facts of having possessed higher

educational qualification than the prescribed one.

7. The writ petition being devoid of merits is dismissed. However, on the ground of equity, it is made clear that removal of petitioner vide impugned order dated 29.04.2019 shall not be taken as a stigmatic and will not come in his way of applying and getting job anywhere else.

(ARUN MONGA)
JUDGE

16.11.2019
Jiten

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