

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No. 12456 of 2017
Date of Decision : 30.01.2020

Madhu Bala

...Petitioner

Versus

Haryana Power Generation Corporation and Others

...Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Dr. D. S. Chahal, Advocate for the petitioner.

Mr. Sandeep Moudgil, Advocate, for respondent's.

B.S. Walia, Judge.

1. Prayer in the writ petition under Articles 226/227 of the Constitution of India is for the issuance of a writ for directing the respondent's to change the post of the petitioner from peon to LDC as per her qualifications w.e.f. the date she joined as peon.

2. Brief facts of the case leading to the filing of the writ petition are that on initiation of the process for setting up of Rajeev Gandhi Thermal Power Project at Khedar, Hisar, an announcement was made by the Chief Minister of Haryana that employment on the basis of qualifications and eligibility would be provided to one member of each of the families of village Khedar whose land had been acquired. Guidelines in respect thereto Annexure P/1 were also issued and applications for employment were invited. The petitioner also applied for the same by filling an application form in the year 2007. Subsequently the government decided to restrict the offer of employment to one eligible member of each of the families of oustees whose land measuring 2 acres or more had been acquired for the setting up of Rajive Gandhi Thermal

Power Plant Khedar, Hisar. The Deputy Commissioner Hisar on 24/05/2011 supplied a list of 133 land oustees who had contributed two acres or more of land. The name of the petitioner's family also figured in the list and consequently the petitioner also applied for employment. However out of total of 133 applicants, 123 applicants were found eligible for appointment while 10 applicants were under age as on the relevant date. The petitioner was also under age on the relevant date. However, vide letter Annexure P/4 dated 26.07.2011 the petitioner was assured that she would be considered for suitable employment on the basis of educational qualifications at the time when she attained the age of 18 years. The petitioner attained the age of 18 years on 20.01.2014. The petitioner vide Annexure P/5/T intimated the respondents the qualifications possessed by her on her attaining the age of 18 years i.e. 10th, 10+2 besides Computer Teacher Training Course (1 year). Plea of the petitioner is that in terms of office noting Annexure P/2 she was eligible to be considered for employment on the post of LDC as she was having qualification of 10+2 with computer knowledge but the respondents offered appointment to the petitioner on the post of peon vide appointment letter annexure P/6 dated 12.03.2014. The petitioner also came to know that land oustees having qualification of 10+2 with computer knowledge were appointed as LDC whereas the petitioner was appointed merely as a peon. It has also been averred that in case of some oustees of land having qualifications of 10+2 with computer knowledge and who had been appointed as peon had subsequently been given changed posts of LDC. Accordingly the petitioner submitted representation Annexure P/9 dated 28.11.2016 requesting the respondents to change her post from peon to LDC as had been done in the case of similarly situated land oustees but to no avail, therefore in the circumstances the writ

petition inter alia on the ground that despite her fulfilling the qualifications for the post of LDC she was wrongly appointed as peon, because other land oustees having qualification of 10+2 with computer knowledge were appointed as LDC but the petitioner having the same qualification had been appointed as peon and lastly that in the case of similarly situated employees who had been wrongly appointed as peon their post had been changed from peon to LDC whereas the same had not been done in the case of the petitioner.

3. Written statement has been filed on behalf of respondent Nos. 1 to 3 contending that the writ petition was misconceived and not maintainable as no legal right of the petitioner had been infringed which would entitle her to invoke the extraordinary writ jurisdiction of this court, that the petitioner had joined service as peon on 12.03.2014 without any protester or objection and later on made representation for change of posts as LDC claiming to be similarly situated with one Sunil Kumar, peon now LDC whereas the petitioner was given an assurance vide letter Annexure P/4 mentioning that in view of her being underage she would be provided with suitable employment on the basis of educational qualifications possessed by her at the time when she attained the age of 18 years, that as per Recruitment and Promotion Policy of Ministerial Cadre as notified vide Annexure R – 3/4 as applicable at the time of appointment of the petitioner on her attaining the age of 18 years in the year 2014, requisite qualifications for appointment on the post of LDC are as under : –

i) Graduate with a minimum 60% Marks in respect of General Category Candidate and 55% marks for SC Candidates of Haryana Domicile from any University recognised by the Government of Haryana.

ii) Must have passed Hindi Sanskrit up to Matric Standard.

iii) Computer eligibility test would be conducted.

It is contended that in the circumstances, it is abundantly clear that the petitioner did not possess the requisite qualification for the post of LDC and was accordingly offered the job of peon commensurate to her qualification.

4. That it has also been contended that there was no discrimination and no other similarly situated person as the petitioner had been appointed as LDC. Appointments had been made strictly in accordance with the Recruitment and Promotion Policy of Ministerial Cadre as prevailing at the time when the appointment letters were issued to the oustees under the scheme then applicable.

5. I have considered the submissions of Ld. counsel and am of the view that the claim of the petitioner is without merit. Undoubtedly the petitioner was ineligible for appointment as per the scheme on account of being underage. Accordingly, she was given an assurance vide letter Annexure P/4 dated 26.07.2011 that she would be given appointment commensurate to the qualification possessed by her at the time of her attaining the age of 18 years. On attaining the age of 18 years the petitioner possessed the qualification of 10th, 10+2 besides Computer Teacher Training Course (1 Year). Eligibility qualifications for appointment to the post of LDC i.e. in the year 2014 were as per notification annexure R-3/4 dated 18.04.2013 and the same provided for requisite qualification of graduation with minimum 60% marks in respect of general category and 55% marks in case of SC candidates of Haryana domicile from any University recognised by the government of Haryana in addition to other requirements for appointment as LDC. Admittedly the petitioner was not

a graduate. In view thereof the petitioner was rightly appointed on the post of peon as per the assurance given to her vide Annexure P/4 dated 26.07.2011 and the qualification of 10th, 10+2 besides Computer Teacher Training Course (1 Year) possessed by her besides in view of the petitioner not fulfilling the eligibility conditions i.e. qualifications stipulated in the notification applicable at the time of appointment of the petitioner i.e. Annexure R-3/4 dated 18.04.2013. Accordingly finding no merit in the writ petition the same is dismissed

30.01.2020
DP &S

(B.S. Walia)
Judge

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.