

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114+210+211

(1) CM-9065-CWP-2021 in/and
CWP No.10045 of 2021

Ravinder Kumar

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and another

...Respondents

(2) CM-9064-CWP-2021 in/and
CWP No.10100 of 2021

Deepak Mittal

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and another

...Respondents

(3) CM-9067-CWP-2021 in/and
CWP No.10106 of 2021

Suneel Kumar

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and another

...Respondents

(4) CM-9066-CWP-2021 in/and
CWP No.10417 of 2021

Madhulika

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and another

...Respondents

(5) CWP No.11308 of 2021

Jai Bhagwan

...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam and others

...Respondents

Date of Decision:- 20.07.2021

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioners
in CWP Nos.10045, 10100, 10106, 10417 of 2021.

Mr. Ashwani Talwar, Advocate for the petitioner
in CWP No.11308 of 2021.

Mr. B.R. Mahajna, Senior Advocate with
Mr. Hitesh Pandit, Advocate and Ms. Shubhra Singh, Advocate

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HARSIMRAN SINGH SETHI, J. (ORAL)

CMs-9065,9064,9067 & 9066-CWP-2021

As prayed for, applications are allowed.

Main Case

By this common order, above mentioned writ petitions, details of which have been given in the head note are being disposed of as a common question of law and similar facts are involved in all the above writ petitions. For the purpose of this order, the facts are being taken from CWP No.10045 of 2021.

The challenge in the present writ petition is to order dated

11.05.2021 passed by the respondent-authority by which, the services of the petitioner(s), who were appointed on the post of Upper Divisional Clerk (UDC, in short) in the year 2018 have been terminated on the ground that the petitioner(s) do not have valid qualifications, which were required as per the advertisement for the appointment to the post on which the petitioner(s) were duly appointed in December, 2018.

Admittedly, the Bachelor degree in Commerce from a recognized Institute/University was one of the essential qualifications for appointment to the post of UDC. The Bachelor degree which has been produced by the petitioner(s) on the basis of which the petitioner(s) competed and were ultimately selected as UDC, is not from a recognized institute. Rather as per the respondents, the said degree is forged as EIILM University, Sikkim from where the petitioner(s) obtained the said qualifications did not conduct B.Com course till the year 2014 and the said University closed in the year 2015 whereas, the petitioners have produced B.Com degree from the said University stated to have been obtained in the session 2009-2011.

At the outset, learned Senior counsel appearing on behalf of the petitioner(s) submits that the petitioners be allowed to withdraw these writ petitions with liberty to approach the Managing Director of the respondent-Nigam within a period of ten days by filing an appeal against the said orders of termination of their services passed by the respondent-Nigam bringing to the notice of the said authority detailed objections which the petitioner(s) have in respect of the order terminating their services and also to convince the said authority that the degree on the basis of which, the petitioner(s) competed and were selected and ultimately appointed on the post of Upper

Divisional Clerk (UDC), was genuine and was in accordance with eligibility conditions depicted in the advertisement.

Learned Senior counsel for the respondent-Nigam very fairly submits that in case, the petitioner(s) prefer any appeal raising the grievance against the termination order, the same will be considered by the Managing Director of the Nigam and appropriate order will be passed on the same within a period of six weeks from the date of presentation of the same.

This satisfies the contentions raised on behalf of the petitioner(s) that the appeal to be preferred by them, be decided in a time bound manner.

Learned Senior counsel appearing for the petitioner(s) submits that during the period appeal to be preferred by the petitioner(s) remains pending, the petitioners be allowed to discharge their duties for the reasons that if the appeal preferred by the petitioner(s) is allowed, the petitioner(s) will suffer prejudice.

The prejudice, which is being projected, can be taken care of by issuing a direction to the respondent-Nigam that in case, appeal preferred by the petitioner(s) is accepted, then petitioners will be given continuity in service along with salary for a period for which the petitioners will remain out of service.

Keeping in view the fact that the employment is secured by the candidates after competing with numbers of candidates and the termination of their service can be a matter of life and death and also the fact that no one who is ineligible to compete for appointment, is selected and that too at the cost of an eligible candidate, it will be appreciated that the appeal, if filed by the petitioner(s) before the Managing Director of the respondent-Nigam,

is decided by the said authority after being fully convinced that the appeal is being decided on the basis of actual facts and not on disputed facts. In case, the Managing Director has any confusion about the facts of the case and is of the opinion that the same needs to be ascertained/clarified before deciding the appeal, the Managing Director will be free to ascertain/clarify the said facts so as to arrive at just and proper decision.

In view of the above, as prayed for by the learned Senior counsel appearing for the petitioner(s), the present writ petitions stand disposed of having been withdrawn with liberty as prayed for.

Interim orders, if any, passed in these writ petitions stand vacated immediately upon withdrawal of the writ petitions but, in case, the appeal filed by the petitioner(s) is ultimately accepted by the authorities concerned on merits, the petitioner(s) will get continuity in service along with all consequential benefits including the salary for the period petitioner(s) will remain out of service.

July 20, 2021*aarti***(HARSIMRAN SINGH SETHI)****JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*