

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

CWP-10291-2021(O&M)

Date of decision:-22.11.2021

Pawan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Puneet Bali, Sr.Advocate with
Mr.Udey Agnihotri, Advocate and
Mr.Nihit Lomis, Advocate
for the petitioner.

Mr.Sharad Aggarwal, AAG, Haryana.

Mr.Kanwal Goyal, Advocate and
Mr.D.R. Singla, Advocate
for respondent No.3.

H.S. MADAAN, J.

1. Reply to CM-11934-CWP-2021 filed on behalf of petitioner
is taken on record.

2. Petitioner – Pawan Kumar participated in the examination
conducted by respondent No.2 – Haryana Staff Selection Commission
(hereinafter referred to as HSSC) for recruitment of Upper Division

Clerks with Uttar Haryana Bijli Vitran Nigam Limited (hereinafter referred to as Nigam); he was successful and appointed to that post vide appointment letter dated 12.12.2018; the petitioner joined as such; he was issued a show-cause notice dated 20.11.2020 by his employer on the allegation that B.Com degree from EILMU University submitted by him at the time of joining service was not genuine and as to why his services should not be terminated on account of non-fulfilment of essential qualification and for submitting a forged certificate; the petitioner filed reply to the notice; he was afforded opportunity of personal hearing also, however vide order dated 31.3.2021, his services were terminated.

3. Feeling aggrieved, the petitioner has filed the present writ petition.

4. Admittedly, the petitioner has failed to avail of departmental remedy before filing of the writ petition. Keeping in view the facts and circumstances of the case, I find that the petitioner should have availed of said remedy before knocking at the door of this Court. In CWP No.10045 of 2021 petitioner - Ravinder Kumar, in CWP No.10100 of 2021 petitioner - Deepak Mittal, in CWP No.10106 of 2021 petitioner - Suneel Kumar, in CWP No.10417 of 2021 petitioner - Madhulika and in CWP No.11308 of 2021 petitioner – Jai Bhagwan, who are similarly placed employees, during the course of proceedings had withdrawn the writ petitions seeking opportunity to approach the Managing Director of respondent – Nigam by filing appeal against the orders of termination. They were allowed to withdraw the writ petitions granting them liberty asked for. The writ petitions were accordingly disposed of vide

consolidated judgment dated 20.7.2021, copy of order being Annexure R3/1.

5. Though learned counsel appearing for the petitioner has contended that in that writ petitions, petitioners themselves had withdrawn the writ petitions, whereas here the petitioner is not desirous of doing so and want adjudication of his grievances by this Court and further the appeal filed by several other employees similarly placed, before the Nigam have been dismissed by a cyclostyled order and petitioner does not hope to get any justice from there.

6. Whereas, learned counsel appearing for the respondent has contended that with remedy of appeal being available to the petitioner, he should have taken recourse to it before coming to this Court. I on my part feel that once detailed procedure is provided for redressal of grievances of the petitioner, that should be adopted first instead of rushing to this Court without doing so asking for intervention of this Court in writ jurisdiction. That is not to be exercised in routine but in exceptional circumstances. The reason given for not filing appeal is not found to be convincing. There is nothing to show that respondent – Nigam is nursing any prejudice against the petitioner or is inimical towards him. It is expected to hear and dispose of the appeal on merits and not for any extraneous reason. Merely because appeals of certain co-employees have been disposed of does not mean that the appeal filed by the petitioner would also meet the same fate since every case is to be decided on its own merits. It is not for the petitioner to chose the forum for adjudication of his dispute stating that the dispute be decided by the Court only.

7. I find that keeping in view the facts and circumstances of the case and the orders passed in cases of similar persons, who had also filed the writ petitions, the petitioner is relegated to the remedy of filing appeal before the Managing Director of Nigam. The appeal may be filed within a period of one month from today, which be then disposed of within a period of two months from filing of the appeal.

8. With these observations, the present writ petition stands disposed of accordingly. It is clarified that the appeal filed by the petitioner would be decided on merits and not summarily on the point of limitation. It is further clarified that detailed speaking order would be passed while disposing of the appeal and if the petitioner is not satisfied, he may take recourse to the legal remedy in accordance with law.

Interim order, if any, passed in this writ petition shall stand vacated.

Since the main writ petition stands disposed of, the miscellaneous application, if any stands disposed of accordingly.

22.11.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No