

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

CWP-25238-2021

Date of decision: December 23, 2021

Dinesh Kumar

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner.

Ms. Rajni Gupta, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petitioner, a probationer who was selected as Junior Engineer(Civil) pursuant to an advertisement No.10 of 2019, has impugned an order dated 26.11.2021/06.12.2021 (Annexure P-2) vide which his services have been dispensed with/terminated without issuance of any show-cause notice.

2. I have heard learned counsel for the parties and gone through the case file.

3. Learned Senior counsel for the petitioner strenuously argues that such an adverse order which takes away the livelihood of the petitioner could not have been passed without following principles of natural justice and/or issuance of any show-cause notice. He relies on a judgment of Apex Court in the case of **Shrawan Kumar Jha versus State of Bihar, 1993 (3) S.C.T. 747** and a judgment of this Court in the case of **Ombir Singh versus Distt. Rural Dev. Agency, 1991 (2) S.C.T. 692**.

4. On advance service, learned State counsel appears and opposes issuance of notice of motion. She contends that the petitioner being a

probationer has no right to plead that his services have been terminated without issuance of show-cause notice as the appointment letter itself states that during the probation period, services can be terminated without issuance of any show-cause notice by giving one month notice. Further, she relies on clause-13 of the appointment letter dated 08.06.2020 (Annexure P-1), which is reproduced herein below:-

“13. In case of SC/ST/BC(A&B)/EWS/ESP candidates the appointment is provisional and subject to the SC/ST/BC (A&B)/EWS/ESP certificate being verified through proper channel and if the verification reveals at any stage that the claim belonging to SC/ST/BC(A&B)/EWS/ESP, as the case may be, is false, the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificate.”

5. Confronted with the above clause, learned Senior counsel submits that regardless of the fact that ostensible reason of termination of services of the petitioner providing wrong information *qua* his father having served with the Government of India, 5 marks given to the petitioner under Socio-Economic criteria cannot be deducted as on the date he applied for the post in question, his father was not in service. The insipidity of the argument is borne out from the clause (iv) (a) of the notification dated 11.06.2019 issued by the Government of Haryana:-

“(iv) The 10 marks for socio-economic criteria and experience shall be allocated as follows:-

(a) if neither the applicant nor any person from among the applicant’s family viz. father, mother, spouse, brothers and sons, is, was or has been a regular employee in any Department/Board/ Corporation/Company/Statutory Body/Commission/Authority of Government of Haryana or any other State Government or the Government of India;

(5 marks)”

6. A perusal of the above leaves no manner of doubt that even if the father or any other family member of an aspirant who applied pursuant to the

advertisement had ceased to be in service, he/she is not entitled to allow 5 marks under the Socio-Economic criteria. Concededly, it is not the case of the petitioner that his father was not in Government service. The aforesaid clause (iv) (a) is not under challenge before this Court. The petitioner cannot be given any unfair advantage of having once been selected by indulging in concealment and on discovery thereof by the respondents, cannot be given benefit thereof. Accordingly, no grounds for interference are made out.

7. At this stage, learned Senior counsel for the petitioner submits that assuming the petitioner was wrongly awarded 5 marks under the Socio-Economic criteria, since he was under the *bona fide* impression that the aforesaid clause is applicable only in those cases where the family member of an applicant is currently in service, even then, as per marks obtained by the petitioner, after deducting the 5 marks, he is entitled to continue in service as the last selected candidate in the category the petitioner applied, has secured lesser marks than him. I am not inclined to go into that aspect of the matter in this *lis*. The petitioner is at liberty to follow up his case with the respondents and in case, he has secured more marks than the last selected candidate, needless to say, he will be given due weightage of the same.

8. Dismissed with the aforesaid observations.

(ARUN MONGA)
JUDGE

December 23, 2021
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No