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

211

CWP-18436-2016

Date of decision : 29.04.2022.

Balwinder Singh

... Petitioner

Versus

State of Haryana and another

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Gurpreet Singh, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. Tribhuvan Dahiya, Senior Advocate with
Mr. Deepak Kundu, Advocate for respondent No.2.

Anupinder Singh Grewal, J. (Oral)

The petitioner is seeking a direction to the respondents to issue him an appointment letter to the post of Lecturer in Electrical Engineering.

Learned counsel for the petitioner submits that the petitioner had been duly selected as a Lecturer in Electrical Engineering under BC category in response to the advertisement issued by the respondents. He states that in response to the application submitted by the petitioner under the RTI Act, he was informed that the petitioner had been selected. He has referred to the copy of the proceedings which is annexed as Annexure P-3. He further submits that it was also submitted by the respondents that as per record, the petitioner did not join the post. A copy of the application dated 04.02.2016 is annexed as Annexure P-3. He, therefore, submits that the respondents have taken contradictory pleas which are unsustainable under the law.

Learned Senior counsel for respondent No.2, however, submits that there was an inadvertent error in communication to the petitioner as the record was old and it took sometime to collate the same. Subsequently corrigendum was also issued. The petitioner sought appointment under BC-B category but the respondents while operating the roster had found that a post at serial No.10 would be for BCB category, however, while making the appointments, they did not reach the roster point at serial No.10.

In pursuance to the previous order, learned counsel for respondent No.2 has produced the record including the official notings dated 08.07.2009 wherein a decision had been taken that the appointment could not be made for the post of Lecturer in Electrical Engineering under BC-B category for want of roster point. He also submits that the petitioner had approached the respondents after six years by filing an RTI application.

At this stage, learned counsel for the petitioner submits that the petitioner had been personally going to enquire from the office of the respondents and when, he did not receive any response, thereafter, he had made an application. He has relied upon the judgements of the Supreme Court in the cases of **Ram Bilash versus Union of India and others**, passed in Civil Rule No.1475 of 1995, decided on 19.07.2001, **Khub Ram versus Dalbir** and another connected matter **Mahavir Prasad versus Dalbir** bearing Civil Appeal Nos.2734 of 2012 and 4097 of 2015, decided on 29.04.2015 and **Prem Prakash versus Union of India and others**, 1984 AIR 1831.

Heard.

The petitioner had sought selection as Lecturer in Electrical Engineering in pursuance to the advertisement issued by the respondents in the

year 2009 (Annexure P-1). He had earlier been communicated that he had been selected but later the respondents have taken a categorical stand that as the roster point at Serial No.10 for BC-B category under which the petitioner had sought appointment could not be reached, the appointment was not made.

I am of the considered view that although there may not be any malafide on the part of the respondents in denying the petitioner appointment to the post of Lecturer in Electrical Engineering but the petitioner had been put to hardship due to the miscommunication by the respondents.

The judgements relied upon by the counsel for the petitioner are distinguishable on facts and are not applicable to the instant case.

The judgement of the Supreme Court in the case of **Ram Bilash versus Union of India and others(supra)** pertains to a case where the petitioner therein had qualified and was selected in the test but the appointment letter had not been issued to him. The respondents were directed to appoint the petitioner against any available vacancy by relaxation of age or alternatively, he would be paid Rs.50,000/- as compensation. In the instant case, the appointment could not be made as there was no vacancy under BC-B category in terms of the roster.

The judgement in the cases of **Khub Ram versus Dalbir** and **Mahavir Prasad versus Dalbir**, pertain to a case where a person (Khub Ram) had obtained employment by furnishing incorrect information and had continued in service for a number of years and also earned promotions while the claim of the petitioner therein who was a selected candidate had been ignored and the Supreme Court had directed the respondent/State to pay compensation of Rs.3 lacs to the selected candidate and costs of Rs.1 lac was

also imposed.

In the case of **Prem Prakash versus Union of India and others(supra)**, the issue decided by the Supreme Court was whether two selected Scheduled Caste candidates could be denied appointment on the pretext of giving appointment to the candidates, who were wrongly excluded from the reserved category in the previous year. In the instant case, there was an inadvertent error in communicating to the petitioner that he was selected as Lecturer in Electrical Engineering in BC-B category, but subsequently a corrigendum was issued that the appointment sought under BC-B category could not be made as roster point was not reached and thus there was no vacancy under BC-B category for the post of Lecturer in Electrical Engineering.

In response to a query of this Court as to whether the petitioner could be compensated or he could be offered appointment, learned Senior counsel for respondent No.2 submits that the petitioner could not be appointed for want of vacancy under BC-B category and as the petitioner had approached this Court after a considerable delay, he would not be entitled to compensation. There was a bonafide error on their part and they may not be burdened with compensation to the petitioner. The petitioner himself had sent a written communication to the respondents after several years.

It is manifest that the respondents had informed the petitioner that he was a selected candidate but later, they had taken a plea that the petitioner had not joined service and the petitioner was kept on tenterhooks for several years. There was not one but several errors on the part of respondent No.2 in communicating the petitioner on several occasions that he had been selected

and in response to an RTI application sent by the petitioner, the respondent had categorically stated that the petitioner had been selected but he had not joined.

Therefore, I am of the considered view that the petitioner would be entitled to be compensated for the lapse on the part of respondent No.2 for furnishing mis-information to the petitioner.

Consequently, the petition is partly allowed and respondent No.2 shall pay Rs.50,000/- as compensation to the petitioner which would be disbursed to him within a period of one month from now.

(ANUPINDER SINGH GREWAL)
JUDGE

April 29, 2022
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No