

CM-17963-CWP-2023 in/and CWP-9294-1999
2023:PHHC:141610 1
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101) **CM-17963-CWP-2023 in/and**
CWP-9294-1999
Date of Decision : November 07, 2023

Satbir Singh **.. Petitioner**

Versus

State of Haryana **.. Respondent**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Yogesh K. Saini, Advocate, for the applicant-petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-17963-CWP-2023

Present application has been filed for recalling the order dated 22.09.2023 by which the present writ petition was disposed of having been not pressed.

Notice of the application to the counsel opposite.

Mr. Pankaj Middha, learned Addl. Advocate General, Haryana, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Order dated 22.09.2023 is recalled and the writ petition is restored to its original number and status.

CWP-9294-1999

1. In the present writ petition, the challenge is to the promotion of respondent No.4 to the post of Clerk.

2. As per the facts mentioned in the petition, the petitioner was working on a class IV post of Peon. Next promotion from the post of Peon was to the post of Clerk. A departmental test was conducted by the respondents to adjudge the admissibility of class IV employees to be promoted as a Clerk. The petitioner was concededly at Seniority position No.6 and the intention of the respondents was to fill 4 posts of Clerk. In the written test conducted, out of 11 candidates, who appeared, 9 passed the written test and 2 candidates failed. There were 5 people above the petitioner in the seniority, who cleared the test and ultimately, were promoted on the post of Clerk vide order dated 01.04.1999, copy of which has been appended with this petition as Annexure P-13. The petitioner is aggrieved against the promotion of respondent No.4 to the post of Clerk on the ground that the minimum qualification required for promotion to the post of Clerk is matriculation and the certificate which respondent No.4 had submitted giving the proof of passing of his matriculation examination is forged.

3. Upon notice of motion, the respondents have filed the reply. In the reply, it has been mentioned that respondent No.4 had produced a certificate issued by the Board of Adult Education and Training, New Delhi issued vide Sr. No.1001 under Roll No.5031 and any education qualification obtained from the said institute has been held to be valid and equivalent to matriculation examination keeping in view the pronouncement of this Court in ***Babu Ram vs. State of Haryana 1992 (2) RSJ 385*** as well as in ***CWP No.3410 of 1997 titled as Ram Chander vs. State of Haryana,***

decided on 19.08.1997 hence, the qualification obtained from the said institute is perfectly valid and legal and respondent No. 4 was eligible to be promoted.

4. Respondent No.4 has also filed a reply defending his promotion by placing reliance upon the judgment in ***CWP No.3410 of 1997 titled as Ram Chander vs. State of Haryana, decided on 19.08.1997*** wherein also, the same qualification obtained by one Ram Chander Peon was held to be valid for consideration of his claim to the post of Clerk.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. In the present case, as per the documents on record, the petitioner's only claim is that the qualification obtained by respondent No.4 from the institution concerned is not valid. On being asked about the pronouncement by the competent Court of law qua the other similarly situated employee who had also obtained qualification from the same institution, learned counsel for the petitioner has not been able to rebut that the judicial pronouncement, the detail of which have been given the preceding paragraph, confirms that the qualification obtained from the institution concerned, have been treated equivalent to matric. That being so, the question being raised by the petitioner upon the eligibility of respondent No.4 cannot be adjudicated in favour of the petitioner.

7. Learned counsel for the petitioner submits that during the pendency of the present petition, respondent No.4 was reverted back to the post of Peon and therefore, the petitioner becomes entitled for promotion to the post of Clerk.

8. Nothing has come on record qua the said fact. Even if subsequently on one account or the other, respondent No.4 has been

reverted back to the post of Peon that does not mean, that the post which was consumed by respondent No.4 at the time of promotion, which already stands consumed, is to be filled by the petitioner on the ground that he was next in merit. Further, in the absence of any factual aspect brought on record by the petitioner, no finding can be given whether the petitioner can be given the promotion against the post of Clerk after the reversion of respondent No. 4 to the post of Peon.

9. No other point was argued.

10. Keeping in view the facts and circumstances of the present case, no ground is made out for any interference by this Court at this stage when, not only the petitioner but even respondent No.4 has already retired from service.

11. Dismissed.

November 07, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No