

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6813-2023 (O&M)
Date of Decision: 17.04.2023

Puneet Kumar

....Petitioner(s)

Versus

Union of India and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rishabh Gupta, Advocate, for the petitioner.

Mr. Ankur Sharma, Advocate, for respondent No.1.

Mr. Ashish Kapoor, Advocate, for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the impugned order dated 15.02.2023 (Annexure P-10) passed by respondent No.2 vide which the result declared on 07.10.2022 vide Annexure P-7 has been revised and the issuance of LOI to the petitioner has been rejected.

Respondent No.4 has been served but no one has appeared on behalf of respondent No.4.

Mr. Rishabh Gupta, Advocate appearing on behalf of the petitioner submitted that it is a case where respondent-Corporation issued a brochure dated 09.05.2022 vide Annexure P-1 and an advertisement was

also issued on 09.05.2022 for the purpose of inviting grant of service provider for operating and managing the retail outlet. The present petitioner had applied on 27.06.2022 and thereafter some documents were required to be given by him in pursuance of the letter issued by the Corporation to the petitioner with regard to the financial assets to which he had supplied vide certificate dated 30.08.2022. Thereafter, an interview was held and in the interview the petitioner was selected and it was conveyed to the petitioner vide letter dated 18.10.2022 that he has been selected in the interview. On the basis of the aforesaid letter of selection which was given to the petitioner, the petitioner had resigned from his earlier job so as to take the new assignment by which the selection was made by the respondent-Corporation. However, vide impugned order dated 15.02.2023 (Annexure P-10), he received a letter from the respondent-Corporation when earlier the result was declared his marks were wrongly calculated and again re-evaluation of the marks has been done on the basis of the declaration made by the petitioner pertaining to the financial capability and on the basis of the re-evaluation, LOI cannot be issued to the petitioner since his marks are less than the earlier awarded. Learned counsel further submitted that in the application form he had filled up the saving bank accounts to be Rs. 19,51,208/ which was the only column of the application form and in that application form there was no mention with regard to any other assets etc. and he had mentioned the aforesaid amount and thereafter vide Annexure P-3 he was asked to submit the documents/affidavit regarding financial capability (liquid assets), current year valuation certificate from Chartered Accountant since the valuation certificate submitted earlier was made in the

year 2021. In response to the aforesaid letter, he had submitted liquid asset certificate vide Annexure P-4 from the Chartered Accountant which depicted the total balance and investments to be Rs. 31,20,610.74 and alongwith the aforesaid certificate of the Chartered Accountant dated 30.08.2022, he had also given the bifurcation of amount which was also attached with the certificate and has been attached with the present paper-book as well. He submitted that thereafter the respondent-Corporation while re-evaluating probably did not include the investment in the Life Insurance and that is the reason as to why his marks were reduced on re-evaluation. He submitted that the petitioner had some other assets and liquid assets etc. regarding which had the petitioner been given any opportunity of hearing, he could have given the details to the respondent-Corporation but suddenly vide impugned Annexure P-10, he was told that LOI cannot be issued to him because his result has been revised.

Learned counsel further submitted that once the petitioner has been selected and he has been so conveyed by the respondent-Corporation that he has been selected and on the basis of his selection, he had resigned from his earlier job in order to enable to pick up the fresh assignment, then the impugned order (Annexure P-10) could not have been passed without affording an opportunity of hearing to the petitioner and could not have been done without issuance of notice to the petitioner so that he could explain his position in view of the fact that the petitioner had altered his position to his disadvantage after receiving the letter by which he was selected. He submitted that it is the basic principles of natural justice that whenever an order visits a person with civil consequences, then at least

principles of natural justice are required to be followed by issuance of notice and by adequate opportunity of hearing which has not been done in the present case and therefore the impugned order Annexure P-10 is liable to be set aside being violative of the principles of natural justice.

On the other hand, Mr. Ashish Kapoor, Advocate appearing on behalf of the respondent-Corporation on instructions from Mr. Shashikant Singh, Chief Regional Manager who has passed the order Annexure P-10 and who is also present in the Court today alongwith the record of the case has submitted categorically that the respondent-Corporation will withdraw the order Annexure P-10 forthwith and will issue notice to the petitioner and thereafter after giving him adequate opportunity of hearing, then will take a fresh view with regard to the fact that as to whether LOI should be issued to the petitioner or not and what is the valuation of marks to the petitioner. He has also stated on instructions that the mere fact that as a time gap arrangement the contract has been allotted on temporary/adhoc basis to respondent No.3 will have no effect while passing the fresh order pertaining to the petitioner.

Mr. Rishabh Gupta, Advocate for the petitioner at this stage has stated that in view of the statement made by the learned counsel for the respondent-Corporation, he may be permitted to withdraw the present petition at this stage but has also stated that a direction be issued to the respondent-Corporation to do the needful within time frame work and also not only opportunity of hearing but adequate opportunity of hearing alongwith all the documents which he wishes to supply be considered at the time of the passing of the order.

The prayer of the petitioner in this regard appears to be just and reasonable and the same has not been objected by the learned counsel for the respondent-Corporation. It is, therefore, directed that a fresh exercise be undertaken done within a period of four weeks from today whereby in case it is so required, then notice be given to the petitioner and thereafter the petitioner or his counsel shall be at liberty to provide all the documents which he thinks fit and proper for being considered for the purpose of taking a fresh decision by the respondent-Corporation. Thereafter after considering all the documents which the petitioner supplies, the respondent-Corporation shall pass a fresh order which has to be well-reasoned and a speaking order. It is further made clear that the present impugned order Annexure P-10 which is now to be withdrawn as per statement made by Chief Regional Manager will not affect or influence the fresh process which is to be undertaken and fresh order is to be passed since it has to be by way of a fresh application of mind and strictly in accordance with law.

In view of the aforesaid position and the stand taken by both the learned counsel for the parties, the present petition is disposed of.

Needless to say that in case any adverse is passed against the petitioner, then the petitioner shall always be at liberty to file an appropriate application/petition before appropriate Court and in accordance with law.

17.04.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No