

2023:PHHC:166411

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

CWP-11214-2023

DECIDED ON:06.07.2023

SUMIT SHARMA

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vijay Pal, Advocate
for the petitioner.

SANDEEP MOUDGIL (J)

1. The jurisdiction of this court has been invoked under Article 226/227 of Constitution of India for issuance of writ in the nature of Certiorari for quashing of termination order dated 10.05.2023 (Annexure P-14) on the ground that before issuing the same, neither any show cause notice nor any hearing was provided to the petitioner and further to issue writ in the nature of *Mandamus* directing the respondents to reinstate the petitioner in service with all consequential benefits, to adjust the petitioner against available vacant post of General category or available vacant post in UHBVNL.

2. The counsel for the petitioner submits that the respondent-Haryana Staff Selection Commission issued advertisement no. 3/2016 dated 20.02.2016 for inviting online application for direct recruitment of various posts in both DHBVNL & UHBVNL and the present writ petition pertains to category no.3 post i.e LDC for which total 960 posts were advertised

(Annexure P-1) and the petitioner being domicile of Haryana submitted online application for the same under Outstanding Sports Person(OSP) General category along with requisite documents including his Sports Certificate (Annexures P-2 & P-4).

3. He further submits that the petitioner had cleared the written examination and was called for scrutiny of documents and thereafter for the interview whereas the final result was announced on 08.06.2019. In pursuance of the matter before this Court, a revised final result was issued for the post of LDC against advertisement no.3/2016 (category 3) vide announcement dated 06.01.2020 and the petitioner was selected under OSP (General category) along with four other candidates against the given ten posts (Annexure P-9).

4. It is contended on his behalf that the petitioner joined services vide appointment letter dated 08.07.2020 to the post of LDC (Annexure P-12), wherein as per clause 5 of the appointment letter provides that the candidates are required to successfully pass State Eligibility Test in Computer Appreciation and Application (SETC) conducted by HARTRON within period of 2 years from the date of joining the service which was cleared by the petitioner on 26.05.2022 (Annexure P-13).

5. The counsel for the petitioner vehemently argues that despite fulfilling all the eligibility criteria for the said post, the respondent terminated the services of the petitioner without abiding to the DHBVNL, Employees(Punishment & Appeal) Regulations 2006, and specifically Rule 7 which provides the procedure for inflicting major penalties.

6. In addition, the counsel argues that the respondent has considered

the sports certificate equivalent to a gradation certificate and the sport played by the petitioner is 'Taekwondo' which is one of the sports given under Olympic Games and he had represented the State of Haryana in a national level sports championship securing 2nd position, conducted by a National Level Sports Federation duly registered and recognized.

7. Heard the counsel for the petitioner at length.

8. The case in hand pertains to a termination order dated 10.05.2013 (Annexur P-14) of a candidate who was duly selected by the respondent-Commission under the category of OSP and was later terminated, failing to produce sports gradation certificate. From the perusal of the advertisement, it is specifically mentioned that the Outstanding Sports Games shall be required to produce the Sports Gradation certificate as per Government instructions duly issued by the competent authority. Furthermore, it is also stated in the general instructions of the advertisement that the candidate should bring along all the required documents at the time of verification/scrutiny cum interview.

9. From the perusal of the documents submitted by the petitioner, it is worthy to note that the petitioner did not submit the Sports Gradation Certificate at the time of scrutiny of documents and not even after the selection, rather the document submitted by the petitioner was only a participation certificate and this court is of the considered view that participation certificate in any manner by no stretch of understanding can be treated equivalent to Gradation certificate.

10. The appointment letter dated 08.07.2020 (Annexure P-12) would also stipulate vide conditions No.6(II), 6(VII) and 8, which read as under:-

“6(II) There is nothing adverse against you which may render you unsuitable for Nigam's service on verification of your character and antecedents later on. In case anything comes to the notice of Nigam which may render you ineligible or unsuitable, your services will be terminated from the services of the Nigam without any notice and without assigning any reason.

6(VII) This appointment is purely on provisional basis subject to verification of documents/certificates by the issuing authorities. If on verification these are not found to be genuine or are bogus, your services will be terminated/dispensed with without assigning any reason and without giving any notice.

8. In case any document submitted by you as required in DHBVN is not found to be in order or your character and antecedents verification are not found to be in terms of Nigam's instructions or any concealments on your part which may render you ineligible and unsuitable for appointment, your services will be terminated/dispensed with by DHBVN without giving any notice and this appointment letter would be treated as cancelled.”

11. From the plain reading of the aforesaid provisions stipulated in the appointment letter there is a clear term that in case on verification qua antecedents with regard to the documents or any other information is found to be not as per the terms of respondent-Nigam, the services are liable to be terminated/dispensed with without giving any notice and appointment letter would be treated as cancelled.

12. The court opines that even if respondent has committed an error in scrutinizing the documents, the petitioner do not have a legal indomitable right for appointment in job at least after that mistake comes to light or

otherwise, it would usurp the legitimate right of other eligible candidate for no fault of his and the same cannot be allowed. Therefore, the court while disposing of this petition is of the strong view that to err is human and the respondent did not play any fraud or foul play on the petitioner, indeed it was purely a *bona fide* mistake which can be rectified at any point of time.

13. The court finding this petition devoid of any merits, dismissed the same with no costs.

06.07.2023
Sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>