

113

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13457-2023
DECIDED ON: 03.07.2023

DHARMENDER SINGH

.....PETITIONER

VERSUS

UHBVNL AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vivek Sharma Vats, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

This is a civil writ petition under Article 226/227 of Constitution of India seeking quashing of the notice for termination dated 26.05.2023 (Annexure P-8) and order dated 22.02.2023 (Annexure P-7) issued by respondent No.3 and prohibiting the official respondents from illegally terminating the services of the petitioner, who has been working continuously on the post of Assistant Lineman for the last more than 12 years with a further prayer for directing the respondents to regularise the service of the petitioner as per the assurance given by the respondents to regularise in lieu of non-payment of compensation amount, accrued on account of 40 % permanent disability suffered by petitioner due to 60 % body electric burns on duty.

Learned counsel for the petitioner contends that the petitioner is a victim of unfortunate circumstances, who was engaged as Assistant Lineman against the sanctioned post by the respondent-department and has been continuously working on the said post for the last more than 12 years. He met with an accident,

while performing the duties and has suffered 60 % burnt injuries due to electric flash and became 40 % permanent disabled.

He further submits that the petitioner remained admitted in PGI for almost two months and has re-joined his services on 26.11.2014 without being paid compensation on account of his suffering such burnt injuries and disability.

Learned counsel for the petitioner vehemently contends that the petitioner was working against the sanctioned post, which is still available and sufficient work is there to perform and has been continuously making representations for regularisation of his services.

The petitioner was engaged through Haryana Kaushal Rozgar Nigam and getting salary through the said authority and is not an employee of a private contractor. The order dated 21.12.2022 has been challenged vide which the services of the petitioner has been questioned and sought to be dispensed with on account of the fact that he has passed ITI from an institute namely Industrial Training Institute-Vocational Training Centre registered by Haryana Government, but the same is not affiliated with the State Government.

Learned counsel for the petitioner has also drawn attention of this Court to the impugned order dated 22.02.2023 (Annexure P-7) i.e., the show cause notice, which reads as under:-

"You have submitted your technical education documents of ITI, which have been issued by National Industrial Training Institute, Jhajjar, Haryana. This office has sent a letter to Skill Development and Industrial Training Department, Panchkula (Haryana) vide its office memo no.Ch-70/XEN/BLR/194 II dated 07.12.2022, to verify the recognition/ affiliation of National Industrial Training Institute, Jhajjar. Thereafter, Skill Development and Industrial Department and Industrial Department Panchkula (Haryana) vide its office Memo No.T-4/ Verification/ Private, ITI/ information-21876 dated 12.12.2022,

has intimated that National Industrial Training Institute, Jhajjar is not running under its affiliation. From the above facts, it clearly shows that the certificates submitted to you for the current job are not valid for the current job. Therefore this notice is hereby served upon you to explain your position within 30 days as to why your service should not be terminated in view of ibid wrong committed by you.”

The said notice was sent to the petitioner on 21.12.2022 vide which he was called upon to respond within a period of 30 days to which he submitted a detailed reply and finally on 26.05.2023 his services were ordered to be terminated (Annexure P-8).

The petitioner has produced a copy of the notification dated 20.08.2009, whereby Regulation 1.2 envisages essential qualification for Assistant Lineman, which reads as under:-

“97% posts of ALM will be filled up by direct recruitment from amongst the persons having minimum qualification of matric with 2 years ITI in Electrician-Wireman trade or having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government. Must have passed Hindi/Sanskrit upto Matric standard.”

This Court is obvious of the fact having gone through the impugned order dated 22.02.2023 (Annexure P-7) and notification dated 20.08.2009, whereby it is abundantly clear that 97 % posts of ALM have to be filled up by direct recruitment from amongst persons having minimum qualification of matric with two years of ITI in Electrician/Wireman or having 2 years Vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government.

To this part, learned counsel for the petitioner argues that it is the only

recognition which is mandatory for any such institute and the institute namely National Industrial Training Institute is duly recognised by the State Government, which the respondents have verified, but the impugned order has been passed on the assertion by the authorities that the institute is not affiliated with the Haryana Skill Development and Industrial Training Department, Panchkula (erstwhile Vocational Education Department, Haryana).

Be that as it may, a perusal of the certificate (Annexure P-9) relied upon by the petitioner for seeking the aforesaid job as Assistant Lineman (ALM) shows that the National Training Institute is registered by Haryana Government, but has failed to show the recognition of the said Institute with the State Government. Even otherwise, if any such recognition is granted to a institute by the State Government it is always subject to certain conditions including the affiliation of the same with the appropriate Institute/University/Department of the State Government, as notified in the order of recognition for such institute. The petitioner has failed to produce any copy of such recognition letter and even from the certificate, it is crystal clear that National Training Institute from which the petitioner has pursued the ITI certificate is not affiliated with the State Government, therefore, this Court does not find any infirmity, ambiguity in the show cause notice 22.02.2023 (Annexure P-7) and in the order dated 26.05.2023 (Annexure P-8).

At this stage, learned counsel for the petitioner also contends that the respondents-UHBVN is not a Competent Authority to pass the impugned orders, as the petitioner is not an employee of the UHBVN and there is no relationship of master and servant and claims that it is the Haryana Kaushal Rozgar Nigam, which is a Competent Authority under whom the petitioner has sought the services as Assistant Lineman (ALN).

This plea also does not find any merit in the mind of this Court, as the

petitioner was only requisitioned through Kaushal Rozgar Nigam to maintain uniformity and equality of opportunity in the matter of service by contractual employment, which not only adheres to the uniformity, but also the transparency for all incumbents and aspirants. Even otherwise, the said Kaushal Rozgar Nigam is not impleaded as a party in the present petition and on that account as well, the plea of the petitioner lacks merit.

In view of the above, petition stands dismissed.

However, the petitioner will be at liberty to take appropriate remedies as far as the claim for compensation on account of suffering burnt injuries, while serving as Assistant Lineman (ALM) on duty, is left open and any observation may in the instant order would find only to the question of termination of his services.

(SANDEEP MOUDGIL)
JUDGE

03.07.2023

Meenu

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