

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

116+225

CWP-14167-2018 (O&M)

Date of Decision : 17.08.2023

Mohd. Rizwan

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Govind Mor, Advocate for
Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Shivoy Dhir, Sr. Panel Counsel
for the respondent-UI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 17.04.2017 (Annexure P/11) whereby his candidature has been cancelled.

2. The brief facts of the case are that pursuant to advertisement of Staff Selection Commission, the petitioner applied for the post of Junior Engineer (Civil). The petitioner appeared for the preliminary examination which was conducted on 22.05.2014. The petitioner cleared written examination and thereafter, he was called for interview to be held on 30.03.2015. The petitioner submitted all the requisite documents at the time of interview and he was declared successful candidate. The petitioner was medically examined on 08.02.2016 and he was found medically fit.

The petitioner on account of pendency of criminal case could not join. The

petitioner made a representation seeking time to join. The application of the petitioner seeking extension to join was rejected. The respondent-BRO rejected candidature of the petitioner and returned all the documents of the petitioner to Staff Selection Commission, New Delhi. The petitioner approached Central Administrative Tribunal against action of the respondent. The Central Administrative Tribunal passed an order in favour of the petitioner, however, the said order was recalled on the ground of jurisdiction.

3. Learned counsel for the petitioner *inter alia* contends that petitioner was implicated in a false case and he has been acquitted vide judgment dated 21.02.2017 passed by Additional Sessions Judge, Palwal. The petitioner could not join on account of pendency of criminal case. There was no fault on the part of petitioner as he was wrongly implicated.

4. Mr. Shivoy Dhir, Sr. Panel Counsel for the respondents submits that as per notification dated 06.06.1978, a candidate can be granted maximum 09 months' time to join and said period of 09 months by subsequent orders has been reduced to 06 months. The petitioner was supposed to join in the month of February' 2014 and on account of pending criminal case, he could not join. The petitioner was acquitted in February' 2017 i.e. much after the expiry of maximum period which could be granted to him. The selection process has completed and there is no vacant post against which the petitioner can be appointed.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. From the perusal of record, it is evident that selection process was initiated in 2014 and the petitioner was supposed to join in the month

of February' 2016. The petitioner could not join on account of pending criminal case and he sought extension. As per notification in vogue, the respondent could grant maximum 06 months' time to join, however, the petitioner was unable to join even after the expiry of 09 months which was original period prescribed by notification of 1978. Had petitioner been able to join within 09 months, this Court could consider applicability of notification of 1978, however, the petitioner could not get the matter settled even within 09 months from the last date of joining. The petitioner was involved in criminal case and it was discretion of the authorities to consider case of the petitioner, though discretion cannot be exercised arbitrarily and whimsically. The selection process has completed and no post is lying vacant. The selection process completed in 2016 and it does not seem to be appropriate to direct the authorities to consider claim of the petitioner after 07 years from the date of completion of selection process. Even otherwise, there is no compelling reason to direct the respondent to permit the petitioner to join.

7. The petition sans merit, thus, deserves to be dismissed and accordingly dismissed.

8. Pending applications, if any, shall also stand disposed of.

17.08.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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