

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

112

CWP-6632-2018 (O&M)

Date of Decision : 04.12.2023

VINOD KUMAR

..... PETITIONER

V/S

PUNJAB NATIONAL BANK & OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Alka Chatrath, Advocate and
Mr.Divyajot Mann, Advocate
for the petitioner.

Mr. Saurav Verma, Advocate
Mr. Akash Soni, Advocate and
Ms. Preeti Grover, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of Constitution of India is seeking setting aside of appointment letter dated 04.01.2017 (Annexure P-10) whereby respondent No.4 was appointed on the post of Peon. The petitioner is further seeking direction to the respondents to appoint him on the post of Peon.

2. The undisputed facts emerging from the record are that pursuant to an advertisement issued by the respondents for the post of Peon, 41 candidates applied under different categories. There were 05 posts meant for general category and 04 posts for reserved category. The petitioner belongs to OBC category. The petitioner came to be selected

vide appointment letter dated 04.01.2017. CWP No. 1070 of 2017 came to be filed before this Court assailing selection of different candidates. The petitioner herein was respondent No.7 in the said writ petition. The writ petition came to be disposed of as during the pendency of said writ petition, the respondents recasted selection list. In the recasted selection list, the petitioner was fired and another candidate came to be selected. The candidature of the petitioner was cancelled vide communication dated 09.04.2017. The petitioner attempted to collect documents relating to qualification of respondent No.4. The petitioner filed an application under Right to Information Act and ultimately, succeeded in getting information to the extent that respondent No.4 is a graduate whereas maximum qualification prescribed as per advertisement was 10+2. Faced with this, the respondent-bank dismissed the respondent No.4. It is apt to notice that respondent No.4 was dismissed during the pendency of present writ petition. The petitioner on account of appointment of respondent No.4 was at Serial No.1 in the waiting list.

3. Learned counsel for the petitioner contends that the respondent-bank by mistake or otherwise appointed respondent No.4 who was ineligible for the post. The appointment of respondent No.4 was cancelled on account of filing of present writ petition. The natural corollary of dismissal of respondent No.4 was that the petitioner should be considered for the post because he was shifted from the select list to waiting list on account of adjustment of respondent No.4.

4. Per contra, learned counsel for the respondents submits that there is always life of waiting list. The select list has expired, thus, waiting list stands outlived. The petitioner, at this belated stage, cannot be

considered for the post of Peon.

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

6. The conceded position emerging from the record is that the petitioner was appointed on 04.01.2017 pursuant to advertisement dated 28.11.2016 (Annexure P-1). The petitioner belongs to OBC category and respondent No.4 also belongs to BC category. The appointment of respondent No.4 entailed cancellation of appointment of petitioner. The maximum prescribed qualification was 10+2 and respondent No.4 was holding degree of graduation. The respondent No.4 concealed his qualification and got appointment. The respondent-bank conducted enquiry and thereafter respondent No.4 was dismissed from service. The petitioner was pushed to waiting list on account of recasting of select list which was outcome of CWP No.1070 of 2017 filed before this Court. The respondent No.4 has been dismissed from service during the pendency of present petition and the petitioner has approached this Court in 2018.

7. The respondent-bank re-casted select list on account of filing of writ petition before this Court. The petitioner was deprived of selection because of concealment of facts on the part of respondent No.4. It was initiative of petitioner by way of present writ petition which gave impetus to respondent-bank to initiate enquiry and dismiss the respondent No.4. There was no fault on the part of petitioner. The matter is pending before this Court since 2018 and it is settled proposition of law that no litigant can be made to suffer on account of pendency of matter before the Court. The petitioner was initially appointed and he was fired on account of litigation which ensued between the parties. There was concealment on the part of

respondent No.4 and it cannot be concluded that there was no mistake on the part of respondent-bank. The bank has corrected its mistake. The denial of appointment to the petitioner would be travesty of justice. The petitioner is pursuing the matter since cancellation of his appointment. It is apt to notice that he was party to earlier round of litigation which resulted into cancellation of his appointment. Learned counsel for the petitioner has fairly stated that the petitioner shall not claim back wages.

8. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition deserves to be allowed and accordingly allowed. The respondent-bank is directed to issue appointment letter to the petitioner. It is made clear that the petitioner shall not be entitled to back wages and other financial benefits for the past period. Needful shall be done within three months from today.

9. Pending application, if any, shall also stand disposed of.

04.12.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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