

113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20538-2023
Date of decision: 15.09.2023

Suraj Sharma*Petitioner*

V/s

State of Punjab and others ...*Respondents*

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Narender Singh Kamboj, Advocate
for the petitioner.

DEEPAK MANCHANDA J. (ORAL)

The instant writ petition has been filed under Article 226/227 read with Articles 14 and 16 of the Constitution of India for issuance of a writ in the nature of mandamus, directing the respondents to issue appointment letter to the petitioner for the post of Clerk against CRA 298/21 in Punjab State Power Corporation Limited (PSPCL) under the category of Person with Disability (Visually Handicapped)/Ex-serviceman and with a further prayer that direction may be issued to respondent No.1 to modify the policy letter vide notification 02.02.1982 (Annexure P-11) by the Government of Punjab, Department of Personnel and Administrative Reforms (Personnel Policies Branch) to create a separate sub category for the Defence Service Personnel, who have been released from defence forces after getting disability attributed to Military Service.

Learned counsel for the petitioner contends that the petitioner was employed in Indian Air Force on 03.11.1992 and was doing his service job as a defence personnel. While serving in the Indian Air Force, his optic nerve got

damaged. Thereafter, the Indian Air Force released the petitioner from defence service with 100% disability as an ex-serviceman on 06.08.1999. Vide advertisement No.CRA 298/21, the respondent No.3 published posts of Clerks out of which 38 posts were reserved for Ex.-serviceman and 06 posts were reserved for person with disability(Visually Handicapped). The petitioner applied under category of Visually Handicapped and appeared for Part-I examination where he secured 55% marks. Learned counsel for the petitioner further contends that petitioner again appeared in Part-II examination conducted by the respondents and secured 50.5 marks. After qualifying the Part-II Examination/main exam, the petitioner was called for interview and verification of documents was done on 07.07.2022. However, the Punjabi language Certificate which is compulsory for the post of Clerks but same was submitted by the petitioner only on 17.08.2022. He also submits that the respondent No.3 vide letter dated 04.05.2023 intimated the respondent No.1 since the petitioner has not submitted the Punjabi language Certificate on time before the last date of online application registration i.e. 27.08.2021. Therefore, the petitioner is not eligible to get appointed for the post of Clerk and there is no disabled category under Ex-serviceman. Learned counsel further submits that petitioner has served a legal notice dated 14.07.2023 (Annexure P-10) to respondents, which has not been taken into consideration till date and the petitioner would be satisfied if necessary directions are given for deciding the legal notice in a time bound manner.

On receipt of advance copy, Mr. Neeraj Madaan, Advocate has put in appearance on behalf of respondents and while referring to Annexure P-5 submits that six posts (three reserved for women clerks) were advertised by respondents under CRA 298/21 under Visually Handicapped quota and the

of online test, the documents of qualified candidates were checked and the 100% Blind Disability Certificate which was presented by the petitioner was also verified.

He further argues that the petitioner did not produce Punjabi Pass Certificate which is compulsory and same should have been passed before 27.08.2021, the date of online application applied. He refers to Clause-4 of advertisement regarding passing of Punjabi Test which is read as under.

“Qualification of Punjabi is essential for all posts. For this purpose, all the candidates must have passed Punjabi of at least Matriculation or its equivalent level upto last date of submission of online application.”

Learned counsel for the respondents also submits that as per advertisement the last date to register the online application was 27.08.2021 but the petitioner's Punjabi language Certificate is of dated 17.08.2022 which is in violation of Clause-4 of the advertisement. He again argues that on 27.06.2022, the petitioner moved an application for changing the category from Visually Handicapped category to Ex-servicemen (Visually Handicapped) category for granting the benefit of Ex-servicemen category but as per Punjab Government instructions there is no sub category of disabled in Ex-servicemen category and specifies that as per CRA 298/21, regarding category clause, the petitioner/candidate was supposed to read the category-wise break up of posts carefully before filling up the online application and apply in the category to which he belongs to and should have possessed the reservation.

While referring to Annexure P-5, learned counsel for the respondents submits that petitioner has pleaded his case on the basis of compassionate ground where the six months time for depositing the Punjabi Pass Certificate is generally

petitioner has not applied on the basis of compassionate ground whereas, he has applied under the direct recruitment in CRA 298/21 so since petitioner was not fulfilling the condition for recruitment under CRA 298/21 for the post of Clerk under VH (Visually Handicapped) category where the certificate of possessing Punjabi language was mandatory upto 27.08.2021 the date of online application. Accordingly, the candidature of the petitioner was not accepted and rightly rejected.

I have heard learned counsel for the parties and have gone through the case file minutely.

Since it was a pre-condition for submitting the Punjabi Language Certificate at the time of submission of online application the day petitioner applied for the said post on 27.08.2021 and by that time the petitioner was not having the Punjabi language passing certificate which was submitted only on 17.08.2022 much thereafter. Further, since he applied under Visually Handicapped category and not under the Ex-servicemen (Visually Handicapped) category so benefit of Ex-servicemen cannot be extended once petitioner being a vigilant and knowingly applied under the said category. Accordingly, the prayer for subsequent change of category after fulfilling the online application cannot be done unilaterly which is in violation of terms and conditions and the clauses enumerated in the advertisement which were clearly mentioned and petitioner knowingly accepted and fulfilled the form.

Keeping in view the aforesaid circumstances, the present writ petition is devoid of merits and is hereby dismissed.

15.09.2023
Sapna

(DEEPAK MANCHANDA)
JUDGE