

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

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CWP No.132 of 2020 (O & M)

Date of Decision : 23.1.2024

*Prashant**..... Petitioner**versus**State of Haryana and others**..... Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate, for the petitioner

Mr. Ravi Pratap Singh, DAG, Haryana

Mr. Balwinder Sangwan, Advocate and
Mr. Savreet Singh Brar, Advocate, for respondent no.2/HPSC

TRIBHUVAN DAHIYA J. (ORAL):

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 5.9.2019/2.12.2019, Annexure P-2, whereby the petitioner's appointment as Assistant Professor (College Cadre) Mathematics was cancelled.

2. Learned senior counsel contends that the respondent/Haryana Public Service Commission (for short, 'the Commission') advertised various posts of Assistant Professor (College Cadre), including thirty-three posts of Assistant Professors, Mathematics, out of which one was reserved for General-Physically Handicapped (Visually Handicapped) category, to which the petitioner belonged. He was duly selected for the post and offered appointment vide letter dated 10.7.2019, and joined as such on the same date. Later, on account of revision of final result/merit,

his appointment was cancelled vide impugned order dated 5.9.2019, without any show cause notice or providing any opportunity of hearing.

3. Learned senior counsel contends that the order of termination could not have been passed without hearing the petitioner who was working on the post after due selection and appointment. The petitioner could have explained his position and sought appointment against vacant posts. He also contends that one hundred nine posts of Assistant Professor-Mathematics are still lying vacant. As per the policy of reservation, four per cent of these posts are reserved for the handicapped category, out of which one will fall to the category of General-Visually Handicapped. The petitioner can be considered for appointment against that vacant post, in terms of law laid down by this Court in Civil Writ Petition No.7062 of 2003, titled *Ramesh Kumar v. State of Haryana and others*, decided on 1.7.2004.

4. Learned State counsel, on the contrary, contends, since after correction of the final result of selection the Commission revised its earlier recommendation to appoint the petitioner against the reserved post on 21.8.2019, the Department had no option but to terminate his service and offer appointment to the selected candidate, the third respondent. He also submits that the petitioner was relieved from service pursuant to the impugned orders on 5.9.2019. It is, however, not disputed that the impugned order has been passed without hearing to him.

5. Heard.

6. Concededly, the order of termination has been passed without affording any opportunity of hearing to the petitioner. Therefore, being in violation of the Principles of Natural Justice it is unsustainable, and

hereby set-aside granting liberty to the Department to pass a fresh order in accordance with law, after affording due opportunity of hearing to the petitioner, within three months of receiving a certified copy of this order.

While passing the order afresh, the Department shall also take into account the posts presently lying vacant and consider whether the petitioner can be appointed against any of those.

7. Disposed of in above terms.

8. Pending miscellaneous application(s), if any, stands disposed of accordingly.

(TRIBHUVAN DAHIYA)
JUDGE

23.1.2024

Ashwani

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No