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2023:PHHC: 007727

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-2154-2023

Date of decision: 20.01.2024

JASWINDER SINGH

...PETITIONER

Vs.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Dhivam Joshi, Advocate for
Ms. Prabhjot Kaur, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through the instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 10.01.2023 (Annexure P-5) whereby appointment of the petitioner as constable in Armed Police Cadre has been cancelled and petitioner has been discharged from service.

2. The petitioner pursuant to advertisement dated 31.05.2016 applied for the post of Constable in the category of Ex-serviceman (SC). The petitioner has retired from BSF as Head Constable. In the advertisement, it was specifically mentioned that Ex-serviceman would not include personnel of Central Para-Military Forces i.e. BSF, CRPF, ITBP, CISF, SSB. The petitioner despite being ex-employee of BSF participated in the recruitment process and came to be selected. The respondent No. 3 realizing its mistake vide impugned order dated 10.01.2023 discharged the petitioner from service because his

appointment was contrary to standing order no. 01 of 2016 of respondent No. 2 as well as the advertisement.

3. As per petitioner, there was no mistake on his part and it was respondent who accepted application form as well as completed all formalities relating to recruitment. The respondent No. 2 after completing recruitment process could not reject candidature of the petitioner because there was no concealment of fact on part of petitioner and act of respondent No. 2 amounts to violation of principle of estoppel.

4. It is conceded fact that in the advertisement, it was categorically made clear that ex-serviceman would not include ex-employees of BSF. Despite the said fact, the petitioner participated in the recruitment process and inadvertently came to be selected. Besides advertisement dated 31.05.2016, standing order no. 01 of 2016 issued by respondent No. 2 provides that ex-serviceman does not include ex-employees of para-military forces. The petitioner cannot claim estoppel against advertisement as well as standing order which was governing entire recruitment process. It is settled proposition of law that there can be no estoppel against law. The standing order and advertisement are in the form of delegated legislation, which could not be ignored by authorities. It is a case of mere mistake on the part of recruitment agency. The petitioner cannot take advantage of mistake of any one or more officials of respondents.

5. In the wake of facts and findings, this Court is of the opinion that present petition sans merit and deserves to be dismissed.

6. Accordingly, the present petition stands dismissed.

20.01.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No