

CWP-4719-1998

2024:PHHC:037050

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.211

CWP-4719-1998

Date of decision : 14.03.2024

Mohammad Akhtar

.....Petitioner

Versus

State of Punjab and ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab

Mr. Anupam Mathur, Advocate
For respondent Nos, 3, 4, 6 and 7.

AMAN CHAUDHARY, J.

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing the orders of promotion of respondent No. 3 to the post of Senior Assistant in the office of respondent No. 2 and for direction to the respondents to consider the name of the petitioner for promotion to the post of Senior Assistant w.e.f 09.11.1987.

2. As per office report, the parties have been informed through email for the date fixed but none appeared on behalf of the petitioners, despite the case having been called out twice.

3. Learned State counsel has drawn the attention of this Court to preliminary objections, submission and para No. 05 on merits of the written statement dated 23.09.1998 filed on behalf of respondent Nos. 1 and 2, which read thus:-

“Preliminary Objection

Jalandhar Division, Jalandhar, respondent No. 2 before his transfer as Restorer to the office of Commissioner (Appeals), Jalandhar Division HQ at Chandigarh, on 3.11.1987. The petitioner wrongly mentioned his designations as Clerk Ahalmad) applied to Commissioner (Appeals), Jalandhar Division HQ at Chandigarh for seeking permission to sit in Assistant Grade Examination. The application submitted by the petitioner mentioned above is Annexure R-1 and its true translation is at Annexure R-1/T. It clearly shows that the petitioner intentionally mis-represented his designation as Clerk Ahalmad) on the application for seeking permission whereas he was actually working as Restorer at the relevant time. Had the correct designation of the petitioner been mentioned in the application the question of granting permission by the competent authority could not have arisen.

Preliminary submission

For the sake of clarity the facts of the case are given below, followed by parawisa reply :-

The petitioner was appointed to the post of Restorer in the office of the Commissioner, Jalandhar Division, Jalandhar on 21-2- 1986. Due to some Administrative exigency se was transferred an Nestorer on 3-11-1987 in the office of Commissioner (Appeals), Jalandhar Division, headquarter at Chandigarh to attend office work. During the year 1990-91 he managed to appear and cleared the Assistant Grade Examination by illegal ways and means, because under rules, Assistant Grade examination, 1984, only clerks were eligible to appear in the said examination. The petitioner had been making requests to Commissioner, Jalandhar Division continuously from 6.11.1987 to 12.3.1992 for his appointment/adjustment against the post of Clerk. But he was never appointed as Clerk ti11 1994. Thus the petitioner has twisted and mis-represented the facts before this Hon'ble Court by stating that he was appointed/posted as a Clerk in the office of Commissioner(Appeals), Jalandhar Division Headquarter at Chandigarh. The petitioner was later on appointed in the office of Engineering College, Bhatinda as Assistant and was relieved from the office of Commissioner (Appeals), Jalandhar Division on 12.3.1992 to enable him to join his new assignment. After serving there for about two years, he again made a request to the Commissioner, Jalandhar for his appointment as Clerk/ Restorer in his. Consequently on his request, he was taken as Clerk in the office of Commissioner (Appeals), Jalandhar Division HQ at Chandigarh on 1.6.1994 by way of transfer. Now he claims his promotion as Assistant on the ground that he had cleared Assistant Grade Departmental examination in respect of the fact that he being Restorer was not competent to sit in the examination during the year 1990-91 and he managed to & manipulated to clear by illegal Ways and means. Hence the claim is void in the eyes of law and deserves to be turn down.

Para No. 5

The assertion of the petitioner is wrong. The petition er being class III employee (Restorer) was attached with Commissioner (Appeals), Jalandhar Division for attending his office work. There was no order regarding his appointment as a Clerk in the office of the Commissioner(Appeals). It is established on record that the petitioner had himself applied on 30-8-1989 for his absorption as Clerk. In this way the petitioner is mis-representing the facts before this Hon'ble Court erroneously by relying on Annexure P/1A.”

2. In view of the above, the present writ petition is dismissed for non-prosecution.

14.03.2024

G Arora

(AMAN CHAUDHARY)

JUDGE

Whether speaking/reasoned

:-

Yes

Whether reportable

:-

No