

CWP-11509-1999

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2024:PHHC:040357

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11509-1999

Date of Decision:20.03.2024

UDHEY SINGH

..... Petitioner

Versus

B.B.M.B. AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.S. Rana, Advocate
for the applicant-petitioner.

Mr. Karan Nehra, Advocate and
Mr. Harvinder Singh, Advocate
for the respondent-BBMB.

Mr. Neeraj Sharma, Advocate
for respondents No.8 and 9.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of result dated 24.02.1999 (Annexure P-10) and appointment letters issued to private respondents No.5 to 11.

2. The petitioner pursuant to advertisement No.1/1996 applied for the post of Junior Draftman. The respondent by said advertisement had invited applications for 7 posts. The said advertisement was modified vide public notice dated 05.05.1998. In the modified advertisement, it was provided that persons who have completed apprenticeship under Apprenticeship Act, 1961 and possess proficiency certificate would be given preference over other candidates. The private respondents came to be selected and petitioner could not cut the ice. He opted to file present

petition before this Court assailing selection of other candidates.

3. The selection of private respondents was also challenged by another candidate i.e. Rajiv Mohan by way of Civil Writ Petition No.9658 of 1999 before this Court. The said petition has been dismissed vide order dated 15.02.2018 passed by this Court. The relevant extracts of order dated 15.02.2018 are reproduced as below:

“Crux of the matter in the present petition is whether petitioner has any statutory right pursuant to Annexure P-6 for the purpose of claiming preference over respondent Nos.3 to 5 only on the score that he has acquired apprentice training prior to respondent Nos.3 to 5. Annexure P-6 is only giving a preference that too by means of executive order. In other words, whatever, the prescribed qualification for the post of Junior Draftsman like matriculate or its equivalent possesses recognized diploma/certificate in the Draftsmanship is required to be taken into consideration irrespective of acquisition of apprenticeship or not. In other words, by means of an executive order official respondents cannot impose any qualification contrary to rules unless and until rules/regulations are amended in respect of Junior Draftsman to the extent that Senior trained apprentices would be given preference. Thus, petitioner has not made out a right to claim any preference over and above respondent Nos.3 to 5 only on the score that he had acquired apprenticeship in the year 1983-84 whereas, respondent Nos.3 to 5 partly acquired the apprenticeship in the year 1994. Thus, petitioner has not made out a case.”

4. Mr. S.S. Rana, Advocate claims that there was favoritism on the part of Selection Committee. The candidates who were less meritorious were selected and the petitioner was ignored.

5. Concededly, the selection process was completed in February’ 1999 and private respondents except one candidate who had

died, are working with respondent. The petitioner is primarily assailing appointment of selected candidates. The petitioner at present is more than 50 years old. A Constitution Bench of ***Sivanandan C.T. and others Vs. High Court of Kerala and others 2023 SCC OnLine SC 994*** had occasioned to consider validity of rules and appointment of Judicial Officers. Though the Court held that the respondents has made appointment in violation of law yet appointment of already selected candidates was not set aside. The relevant extracts of the judgment read as:

“58.The question which now arises before the Court is in regard to the relief which can be granted to the petitioners. The final list of successful candidates was issued on 6 March 2017. The candidates who have been selected have been working as District and Sessions Judges for about six years. In the meantime, all the petitioners who are before the Court have not functioned in judicial office. At this lapse of time, it may be difficult to direct either the unseating of the candidates who have performed their duties. Unseating them at this stage would be contrary to public interest since they have gained experience as judicial officers in the service of the State of Kerala. While the grievance of the petitioners is that if the aggregate of marks in the written examination and viva-voce were taken into account, they would rank higher than three candidates who are respondents to these proceedings, equally, we cannot lose sight of the fact that all the selected candidates are otherwise qualified for judicial office and have been working over a length of time. Unseating them would, besides being harsh, result in a situation where the higher judiciary would lose the services of duly qualified candidates who have gained experience over the last six years in the post of District Judge.

59.For the above reasons, we have come to the conclusion that it would not be possible to direct the induction of the petitioners into the Higher Judicial Service at the present stage. Many of the petitioners would have since joined the Bar and would be in active practice. It needs to be clarified that their having failed to gain selection to the Higher Judicial Service in the process which was initiated on 30 September 2015, is not a reflection either on their merits or ability and shall not come in the way of their being considered for any other office, judicial or otherwise, in the future.”

6. Considering the fact that a Coordinate Bench of this Court has dismissed an identical petition assailing selection of private respondents herein; the private respondents uninterruptedly are working for more than 2 decades and the petitioner at present is more than 50 years old, this Court does not find it appropriate to disturb appointment of private respondents.

7. Dismissed.

(JAGMOHAN BANSAL)
JUDGE

20.03.2024
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No