



CWP-11219-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11219-2024

Date of decision : 15.05.2024

Raj Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sushil K. Sharma, Advocate
for the petitioner.

Ms.Palika Monga, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus / certiorari declaring the order dated 27.02.2024 (Annexure P-7) passed by the respondents as illegal and for setting aside the same.

2. Learned counsel for the petitioner has submitted that the petitioner had earlier filed CWP-4029-2021 and vide order dated 20.01.2024, the same was disposed of with the following observations:-

“3. Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner is not making any challenge to his discharge/termination and has submitted that he may be granted permission to file a representation with a prayer for fresh appointment/re-enlisting and prays that the competent authority of respondent No.1-State be directed to consider the said representation on the limited aspect of fresh appointment/re-enlisting in accordance with law in a time bound manner.



4. *Learned State Counsel has submitted that in case any such representation on the abovesaid limited point of fresh appointment/re-enlisting is made then the same would be considered by the competent authority of respondent No.1-State within a period of eight weeks from the date of receipt of said representation.*

5. *Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of with a direction to the competent authority of respondent No.1-State to consider the abovesaid representation in accordance with law within a period of eight weeks from the date of receipt of the said representation.*

6. *This Court has not opined on the merits of all the controversy and it would be open to the competent authority of respondent No.1-State to consider and decide the abovesaid representation independently, in accordance with law.”*

It is submitted that in pursuance of the said order, the petitioner had filed a representation dated 25.01.2024 (Annexure P-6) for fresh appointment / re-enlisting the name of the petitioner and the respondent authority instead of considering the representation dated 25.01.2024 had considered the representation dated 13.07.2020 (Annexure P-4), which was the earlier representation and had not considered the claim of the petitioner in the light of averments made in the representation dated 25.01.2024 which was to be decided. It is submitted that on the said ground alone, the order dated 27.02.2024 deserves to be set aside and the competent authority of respondent no.1-State be directed to reconsider the matter and consider the representation dated 25.01.2024 (Annexure P-6).

3. Learned State counsel has submitted that even the representation dated 25.01.2024 is not meritorious but was not in position to deny the fact that the said representation has not been considered by the competent authority.



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4. Keeping in view the above said facts and circumstances, the present writ petition is partly allowed and the impugned order dated 27.02.2024 is set aside and the competent authority of respondent no.1 is directed to consider the representation dated 25.01.2024 (Annexure P-6) filed by the petitioner in pursuance of the order passed by this Court dated 20.01.2024 (Annexure P-5) as expeditiously as possible preferably within a period of 3 months from the date of the receipt of the certified copy of the present order and in case, after considering the same, the pleas of the petitioner are found to be meritorious, then necessary relief be granted to the petitioner and in case, the pleas of the petitioner are not found to be meritorious, then a speaking order rejecting the same be passed within a period of 3 months from the date of the receipt of certified copy of the present order.

5. It is made clear that this Court has not opined on the merits of the case and the competent authority of respondent no.1 would consider and decide the representation independently, in accordance with law.

(VIKAS BAHL)
JUDGE

May 15, 2024.
Davinder Kumar

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