



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

120

CWP-12881-2024

Date of Decision: 09.07.2024

PRASHANT GOYAL**...Petitioner(s)****Versus****STATE OF HARYANA AND OTHERS****...Respondent(s)****CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present:- Mr. R. K. Malik, Sr. Advocate with
Mr. Anshul Labana, Advocate
for the petitioner.

Mr. R. S. Budhwar, Additional A. G., Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed seeking a writ of *certiorari* quashing the order dated 15.05.2024, Annexure P-7, whereby petitioner's representation seeking reinstatement in service against the vacant post of Assistant Professor in Mathematics, has been rejected.

2. The facts of the case in brief are, on 08.03.2019, the second respondent-Haryana Public Service Commission advertised various teaching posts of Assistant Professor in different subjects, including thirty-three posts of Assistant Professor in Mathematics, out of which one post was reserved for General (Physically Handicapped Visual) category. Final result of selection was declared in June, 2019, and the petitioner was selected against this solitary post reserved for the category. Accordingly, he was offered appointment vide letter dated 10.07.2019, Annexure P-1, and joined as such the same day. However, appointment was later cancelled vide order dated

05.09.2019/02.12.2019, Annexure P-2.



2.1. The order was challenged by the petitioner by filing Civil Writ Petition No.132 of 2020, which was disposed of vide order dated 23.01.2024; during its hearing the only contention raised by learned senior counsel for the petitioner was that the order had been passed without affording any opportunity of hearing to the petitioner. Had it been done, he would have explained his position and sought appointment against the post lying vacant. Since, concededly, the order of termination had been passed without affording any opportunity of hearing to the petitioner, and resultantly in violation of the Principles of Natural Justice, it was 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.

2.2. Pursuant thereto, the petitioner was given personal hearing on 27.03.2024 by the Additional Chief Secretary to Government of Haryana Higher Education Department, and the representations submitted by him dated 26.03.2024, Annexure P-6, giving details of total sanctioned as well as vacant posts, were also considered. Thereupon, the impugned order, dated 15.05.2024, rejecting his claim for adjustment against the vacant post of Assistant Professor in Mathematics was passed.

3. In this factual background, learned senior counsel has contended that the representation has been illegally rejected as the petitioner had been duly selected and appointed against the post reserved for General (Physically Handicapped Visual) category. His removal was for no fault of his and, accordingly, has a right to be adjusted against the post lying vacant in the Department. Besides, it has also been contended that the impugned order is violative of the Principles of Natural Justice, as the same has been passed



4. Heard.

5. Only one post of General (Physically Handicapped Visual) category was advertised, against which the petitioner was initially selected and appointed as Assistant Professor in Mathematics, vide letter dated 10.07.2019. The Commission, however, revised its recommendation vide letter dated 21.08.2019, and on that basis the candidate higher in merit than the petitioner was offered appointment. On that account the petitioner's appointment was cancelled, and he was terminated from service vide order dated 05.09.2019/02.12.2019. There is no challenge to the revised recommendation by the Commission leading to appointment of one Baljit Singh against the solitary post reserved for the category. Accordingly, the advertised post, against which the petitioner was an applicant, stands filled. Merely because other posts of Assistant Professor Mathematics are lying vacant in the Department, it cannot confer any right upon the petitioner to seek adjustment/appointment against the same on the ground that he had earlier been selected and appointed by the Commission against one such post. His appointment was cancelled for valid reasons, as the post was offered to the candidate more meritorious than him. Vacant posts in the Department are to be filled as per the procedure laid down for public employment, by ensuring due compliance of the principle of equality enshrined under Articles 14 and 16 of the Constitution. Learned senior counsel has not been able to point out any rules, regulations or instructions which entitle the petitioner for adjustment against an unadvertised vacant post. Besides, it is not his case either that a person appointed on the post, against which the petitioner also competed, is lower in merit than him. Therefore, no exception can be taken to

the impugned order rejecting the petitioner’s claim for adjustment against a vacant post in the Department.

6. Further, the impugned order cannot be termed violative of the Principles of Natural Justice. The petitioner had challenged the earlier order of termination, dated 05.09.2019/02.12.2019, on the ground that it had been passed without affording any opportunity of hearing to him. He sought an opportunity of hearing to explain his position and seek appointment against the posts lying vacant in the Department. His earlier petition was allowed only on this ground, directing the respondents to pass a fresh order after affording the opportunity of hearing. Resultantly, the petitioner was afforded hearing, wherein he submitted a detailed representation seeking appointment against vacant posts. He was well aware of the facts and the purpose of affording the opportunity of hearing, and even made a representation, dated 27.03.2024, presenting his claim. The competent authority has duly considered every aspect of his claim and rejected it by passing a reasoned order, impugned herein. Therefore, the Principles of Natural Justice have been complied with, and in the facts enumerated above, the impugned order cannot be termed illegal merely because a show cause notice was not issued before affording the hearing.

7. In view of the discussion, there is no ground to entertain the petition, which stands dismissed in *limine*.

(TRIBHUVAN DAHIYA)
JUDGE

09.07.2024
Ad

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