

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CWP-19396-2016
Date of Decision: 10.04.2024

Ojsvi

...Petitioner

Versus

The Punjab National Bank and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Manoj Tanwar, Advocate for the petitioner
Mr. Saurav Verma, Advocate and
Ms. Preeti Grover, Advocate for the respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 29.07.2016 whereby he was removed from the post of Peon.
2. The petitioner pursuant to advertisement applied for the post of Peon. The maximum qualification prescribed in the advertisement was 10+2. The petitioner appeared in the interview and thereafter came to be selected. He was issued appointment letter on 12.07.2016 (Annexure P-5). The respondent conducted police verification which was followed by medical examination. The petitioner had to join on 28.07.2016, however, he was asked to come on 29.07.2016. He appeared in the office of respondent on 29.07.2016 but he was not permitted to join.

3. The respondent has rejected candidature of the petitioner on the sole ground that maximum qualification prescribed in the advertisement was 10+2 whereas petitioner was graduate at the time of interview, thus, he could not be selected.

4. This Court vide order dated 19.09.2016, while issuing notice of motion, directed the respondents to implement appointment letter dated 12.07.2016 (Annexure P-5). The said order is reproduced as below:-

“Notice of motion for 19.1.2017.

The concerned respondents are directed to implement the appointment order dated 12.7.2016 (Annexure P-5) till next date of hearing. The respondents are also directed to file short reply as to how orally, the appointment order dated 12.7.2016 (Annexure P-5) cannot be implemented?”

5. Mr. Manoj Tanwar, Advocate submits that petitioner since 2016 is working with respondent and he has been further promoted to the post of Clerk. It would be unjust and unfair to remove him at this belated stage.

6. *Per contra* Mr. Saurav Verma, Advocate submits that he is unaware about promotion of the petitioner. He submits that this Court vide order dated 04.12.2023 in ***Jagdeep Singh v. Punjab National Bank and others, CWP No.2450 of 2019*** has already upheld removal of an employee who was possessing qualification more than maximum prescribed in the advertisement.

7. On being confronted, learned counsel for the respondents expressed his inability to controvert the fact that an employee who has already

been promoted cannot be removed at this belated stage on the ground of over-qualification at the time of appointment.

8. In the normal course, the petitioner was liable to be removed from service, however, this Court cannot ignore the fact that petitioner is working with respondent since 2016 though on the basis of interim order of this Court. Further, the petitioner, as claimed by him, has been promoted from the post of Peon to Clerk.

9. In the wake of fact that petitioner is working with respondent since 2016 and he has been promoted, this Court does not find it appropriate, at this stage, to approve his removal on the ground of over-qualification.

10. Disposed of in above terms.

11. It is made clear that respondent would be at liberty to move an appropriate application before this Court if it is found that petitioner was not promoted.

(JAGMOHAN BANSAL)
JUDGE

10.04.2024
Mohit Kumar

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