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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22011-2020(O&M)

Date of Decision: 28.02.2024

Jaspal Singh and others

....Petitioner(s)

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ravinder Malik (Ravi), Advocate, for the petitioners.

Mr. Dhruv Walia, Advocate, for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 21.10.2020 (Annexure P-8).

2. It is the case of the learned counsel for the petitioners that all the petitioners were appointed as ALM on contractual basis by the respondent-Corporation in the year 2008 by way of outsourcing policy. He submitted that they worked on the aforesaid post till the year 2013 when show-cause notices were issued to them vide Annexure P-1 dated 22.10.2013 on the ground that they have done their ITI course from Sadhaura Technical Institute, District Yamuna Nagar and the certificates were found to be fake and in view of the above, show-cause notices were

issued as to why the services should not be discontinued. He submitted that they had filed a reply to the aforesaid show-cause notice vide Annexure P-2. However, vide Annexure P-3, the services of the petitioners were terminated on 31.10.2013. He submitted that in the termination order also it was mentioned that ITI qualification certificates submitted by them were fake. He submitted that the aforesaid annexure is only pertaining to one of the petitioners but similar kind of orders were passed pertaining to all the petitioners. He submitted that thereafter the petitioners assailed the orders of termination by filing CWP No.1876 of 2014 which came up for hearing before a Co-ordinate Bench of this Court and was allowed vide Annexure P-5. He submitted that by way of the aforesaid order, the orders of termination were set aside but liberty was also granted to the respondents to pass fresh orders in accordance with law and it was also observed that the petitioners will not be entitled for back wages consequent upon the quashing of the impugned orders. He submitted that thereafter the respondents passed a detailed impugned order Annexure P-8 and again the services of the petitioners have been terminated. He submitted that in the aforesaid order, reference has been made to various other judgments of this Court in *Satish Kumar vs. UHBVN and others*, CWP No.4665 of 2014, decided on 18.01.2016, *Rajnish Kumar and others vs. UHBVN*, CWP No.11265 of 2014, decided on 22.01.2016, *Ravi Kant vs. State of Haryana and others*, CWP No.25501 of 2012 and *Gian Chand and others vs. State of Haryana and others*, CWP No.25384 of 2012. He further submitted that when a fresh order was passed vide Annexure P-8, nothing has been stated in the order to show that the certificates were fake but the only reason for termination of the services of the petitioners was that the institution from

where they had done the ITI courses i.e. Sadhaura Technical Institute, District Yamuna Nagar was not recognized by the State Government or any other Government on the basis of the report of the vigilance. He further submitted that show-cause notices were based upon the fact that the certificates were fake but as per impugned order of termination it has not come up that the certificates were fake but the only reason for termination of the services of the petitioners was that the institution from where they had done the ITI courses i.e. Sadhaura Technical Institute, District Yamuna Nagar was not a recognized institute. He referred to the rules in this regard which are appended with the present petition as Annexure P-4 which are the Uttar Haryana Bijli Vitran Nigam Notification dated 18.10.2006 and in the aforesaid rules it has been so provided that the qualification for direct recruitment for the post of Assistant Lineman would be 50% to be filled up by direct recruitment amongst the candidates who fulfill the qualification and the qualification which was required was Matric with 2 years ITI in Electrician/Wireman trade or having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government. The aforesaid rule is reproduced as under:-

*“Qualification for Direct Recruitment for the post
of Assistant Lineman*

50% posts will be filled up by direct recruitment from amongst the candidates who possesses the following qualification:-

- (i) Matric with 2 years ITI in Electrician/Wireman trade or having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government.*
- (ii) Must have passed Hindi/Sanskrit upto Matric standard.”*

3. Learned counsel for the petitioner while referring to the aforesaid rule submitted that the essential qualification at serial No.(i) consisted of two parts. The first part was a person having Matric with 2 years ITI in Electrician/Wireman trade and the second part which was segregated by the expression 'or' having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government. He submitted that the petitioner had done 2 years ITI in Electrician/Wireman Trade and there is no stipulation in the first part of the aforesaid qualification that it has to be recognized by the State Government and it was only when a person was qualified on the basis of 2 years vocational course in the second part of the aforesaid qualification, then the aforesaid vocational course has to be recognized by the State Government and both these different qualifications are independent of each other and they cannot be read together. He submitted that in view of the aforesaid rules itself clearly the petitioners were qualified because there was no requirement of being recognized by the State Government. He submitted that the aforesaid provision was not considered by the Co-ordinate Benches in the aforesaid judgments and therefore, this Court on the basis of the interpretation of the aforesaid rules may grant relief to the petitioners even if on the similar circumstances the petitions of the other similarly situated persons were dismissed by the Co-ordinate Benches of this Court. He referred to the aforesaid judgments which have been attached with the present petition as Annexures P-11 to P-13.

4. He also submitted that since the petitioners have been working on the aforesaid post from the year 2008 to 2013, they have also gained

experience on that post and has also referred to a judgment of this Court in ***Krishan Kumar Rao vs. Haryana Ware Housing Corporation, 1994(4) SCT 158*** to contend that even if at that point of time when the petitioners were appointed to the post of ALM it was the duty of the respondent-Corporation to have verified the certificates in accordance with law and in fact those certificates were verified by the respondent-Corporation but no action was taken against the petitioners by the respondent-Corporation and the petitioners have been continuing in service for a period of about 7 years and they have gained adequate experience and therefore, in the light of the aforesaid judgment of a Co-ordinate Bench of this Court, the petitioners on that strength as well were entitled for continuing in the service and the termination orders are liable to be quashed.

5. On the other hand, Mr. Dhruv Walia, learned counsel appearing on behalf of the respondent-Corporation submitted that the present controversy already stands concluded and decided by various judgments of the Co-ordinate Benches of this Court which have been attached alongwith the present petition as Annexures P-11 to P-13. He submitted that in one of the petitions, even an LPA was also preferred by one Pirthi Chand and in that LPA which has been attached alongwith the present petition as Annexure P-13 it was so observed that the appellant admittedly does not possess two years ITI course in Electrical/Wireman trade and was thus lacking the requisite qualification and therefore no fault can be found with the order passed by learned Single Judge and the LPA was dismissed. He submitted that in this way the case of the respondents is squarely covered by the aforesaid Division Bench judgment in LPA No.946 of 2016 (Annexure P-13).

6. I have heard the learned counsel for the parties.

7. Some of the similarly situated persons who were also appointed on contractual basis as ALM had filed different petitions before this Court and Co-ordinate Bench of this Court vide Annexure P-11 and P-12 have dismissed their petitions and even the subject matter of the aforesaid petitions was exactly similar to that of the present petition. The only distinction which the learned counsel for the petitioners is drawing out is that the Co-ordinate Bench of this Court did not consider the interpretation so given by the learned counsel for the petitioners that ITI qualification of which the petitioners are possessing qualification stand on different footing and cannot be said that pre-requisite was that the institute has to be recognized by the State Government. This Court is of the view that writ petitions filed by similarly situated persons have been dismissed and in one of those cases the petitioner of that case had also assailed the judgment passed by the learned Single Judge and the LPA was also dismissed vide Annexure P-13 and in the LPA it was observed that the appellant admittedly does not possess two years ITI course in Electrical/Wireman trade and therefore the present case is squarely covered in favour of the respondents since facts were identical. The aforesaid judgment of LPA is reproduced as under:-

“The appellant laid challenge to the order of termination of his services passed on the ground that he was not possessing the requisite qualification of two years' course in electrical /wireman trade from an I.T.I. recognized by the State Government. Learned Single Judge dismissed his writ petition relying upon an earlier decision of this Court dated 18.01.2016 in Satish Kumar versus UHBVN and others) where identical issue had arisen for consideration.

The point in issue is whether the appellant was possessing the requisite qualification on the date of his appointment, i.e., 15.10.2008?

It is undeniable that on 18.10.2006, the following qualification was prescribed for the post of Assistant Lineman:-

“QUALIFICATION FOR DIRECT RECRUITMENT FOR THE POST OF ASSISTANT LINEMAN.

50% posts will be filled up by direct recruitment from amongst the candidates who possess the following qualification:-

(i) Matric with 2 years ITI in Electrician/Wireman trade or having 2 years vocational course under the trade of Lineman conducted by Director, ITI & Vocational Education, Haryana from any institute recognized by the State Government.

(ii) Must have passed Hindi/Sanskrit up to Matric Standard.....”

The appellant admittedly does not possess two years' ITI Course in Electrical/Wireman trade and was thus lacking the requisite qualification. In this view of the matter, no fault can be found with the order passed by learned Single Judge. Dismissed.”

8. Therefore, this Court is of the view that the matter has already been concluded by a Division Bench of this Court with regard to the aforesaid argument raised by the learned counsel for the petitioners and therefore, the present petition is devoid of any merit and consequently, the same is hereby dismissed.

28.02.2024
rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking : Yes/No
Whether reportable : Yes/No