



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

139

CWP-29086-2024**Date of decision: 25.10.2024**

RAMPAL

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Rajesh Kumar Kataria, Advocate with
Mr. Salinder Kumar Saini, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 20.03.2024/06.07.2024 (Annexures P-11 & P-12) passed by respondent No.5-Assistant Commissioner (Academic) dismissing the representation submitted by the petitioner with a further challenge to the appointment of respondent No. 8-Mudit to the post of Chowkidar in the year 2006 (Annexure P-8).

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner had got his name registered with the Employment Office, Panipat in the year 1992 and was allotted registration No. 1960/92. He appeared in various physical tests and interviews conducted by different departments, on his name being recommended by the Employment office, pursuant to the advertisements issued by various departments. The petitioner had also appeared for an interview and physical fitness test at Jawahar

**CWP-29086-2024**

-2-

Navodaya Vidyalaya, Naultha, District Panipat for the post of Chowkidar (Watchman). The District Employment Office had forwarded a list of six candidates, including the petitioner, to the School vide its letter dated 25.04.2006. The petitioner alongwith the other candidates, so recommended by the Employment office, participated in the interview as well as the physical test on 22.06.2006 but was not approved and instead respondent No.8 was appointed. He contends that he discovered in the year 2021, that respondent No.8-Mudit is physically disabled and was still appointed to the post of Chowkidar in the year 2006. It is also alleged that he conducted an enquiry into the matter and that respondent No.8 himself disclosed to the petitioner that he had obtained the position through bribery and with the involvement of the then Principal. The copies of the medical certificate as well as the recommendation made by the Committee constituted for appointment of respondent No.8 have been attached as Annexure P-3 and P-4 respectively.

3. Counsel for the petitioner contends that the petitioner had moved various applications for obtaining documents from the competent authority during the intervening period and alleges that the appointment of respondent No.8 was carried out in an illegal and arbitrary manner and that respondent No.8 had not even participated in the said selection process. Alleging that the appointment was not made in accordance with the rules, he sent a legal notice to the respondents but the said legal notice has been replied to by the respondents informing that the complaint made by the petitioner was rejected vide School Letter No. 857 dated 20.03.2024 on the ground that the appointment had been made in accordance with the rules.



4. Aggrieved thereof, the present writ petition has been filed.
5. Learned Counsel for the petitioner has vehemently argued that the respondent No.8 was physically disabled and hence he was not qualified to be appointed to the post of Chowkidar as he could not clear the physical test.
6. Counsel for the petitioner has been asked to refer to the advertisement that had been issued and as to whether there was any requirement for physical fitness standards for a person. He is not in a position to refer to any such advertisement. He has also been confronted with the specific stand of the respondents that apart from the candidates who had been recommended by the Employment Office, Panipat, a notice had also been published in the School Notice Board and various other persons had participated in the interview process (as is evident from the response dated 20.03.2024 (Annexure P-11) even though not recommended by the Employment Office. He is not in a situation to dispute the same.
7. Further, Counsel for the petitioner has also been confronted with the fact as to how would any such argument about the respondent being held ineligible only on account of a physical disability could be a reason to discriminate him in view of the statutory mandate of the Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995. He is not in a position to respond to the same.
8. A further question has been posed to the Counsel for the petitioner as to whether the disability can be equated to a person being unfit to perform a duty, he is also not in a position to respond to the said query.



CWP-29086-2024

-4-

Finding that there is no such response forthcoming to the questions that have been put to him and also noticing that the appointment in question took place in the year 2006 and that the petitioner as well as respondent No.8 had actually participated in the selection process while the instant writ petition that is now being filed in the year 2024, I find that the writ petition is apparently barred by delay and laches.

9. Even otherwise, notwithstanding that the argument of the petitioner about fitness test is accepted, yet, a perusal of the Medical Certificate shows that the disability is in the nature of amputation of ‘right little finger’, which could not be a big impairment in physical fitness test. Besides, the merit list shows that respondent No.8 had been awarded a total of 97 marks whereas the marks of the petitioner are 69. Of the 10 candidates who appeared, there are 04 other candidates who are higher in merit than the petitioner. No one ever challenged the selection process or the result. The present petition has now been filed on the basis of conjectures and unsubstantiated by any evidence.

10. The present writ petition is accordingly dismissed in *limine*.

(VINOD S. BHARDWAJ)
JUDGE

OCTOBER 25, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No