



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

246

CWP-3095-2023(O&M)

Date of decision: 22.05.2025

Dusyant Sharma

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. M.M. Pandey, Advocate and
Mr. Umesh Pandey, Advocate for the petitioner.

Ms. Dimple Jain, DAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The instant writ petition has been filed for directing the respondents to re-fix the pay of the petitioner after granting him the notional pay/increments, with relative *inter se* seniority, from the date of persons lower in merit were allowed to join in the year 2018.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner belongs to the EBPG category and holds the qualifications of Matriculation, 10+2, B.A., as well as an ITI Certificate. The respondents, through Advertisement No. 7/2016 dated 30.12.2006, issued by the Haryana Staff Selection Commission, invited applications for various posts, including 681 vacancies for the post of Water Pump Operator Grade-II under Category No. 30. Being fully eligible and qualified, the petitioner applied for consideration for the said post under the EBPG category. The petitioner



successfully cleared the written examination, and in the final result declared on 04.01.2018, the last selected candidate under the EBPG category had secured 116 marks. Notwithstanding the petitioner having secured a total of 136 marks, his candidature was not considered for appointment to the post. Consequently, the petitioner approached this Court by filing CWP-9110-2018, which was allowed by judgment dated 13.01.2020. The operative part thereof reads thus:-

“Since the petitioner has secured more marks than the last selected candidate under the OSP-EBPG category, this writ petition is allowed. Direction is given to Haryana Staff Selection Commission-respondent No. 1 to recommend the case of the petitioner for appointment to the post of Water Pump Operator Grade-II within a period of 15 days from the date of receipt of certified copy of this order and Public Health Engineering Department, Haryana-respondent No. 2 will issue appointment letter to the petitioner within the next 15 days. A further direction is being given to respondent No. 1 to pay the petitioner Rs.25,000/- as costs.”

3. Accordingly, the respondents were directed to recommend the petitioner's appointment to the post of Water Pump Operator Grade-II within fifteen days from the date of receipt of the certified copy of the order. The Public Health Engineering Department, Haryana, was further directed to ensure compliance within 15 days thereafter apart from payment of costs



amounting to Rs. 25,000/- to the petitioner. Against the said judgment dated 13.01.2020, LPA-785-2020 was filed by the Haryana Staff Selection Commission, which was partly allowed in setting aside the cost award of Rs. 25,000/- but affirming the directions for issuance of the appointment to the petitioner vide order dated 03.12.2021.

4. Notwithstanding the above, the appointment order was still not issued to the petitioner. Consequently, the petitioner was compelled to file COCP-600-2022, following which his final recommendation was made on 25.05.2022, and the appointment letter was thereafter issued to the petitioner. Learned counsel submits that the petitioner was subsequently placed in the seniority list at serial number 156-A i.e. above candidates junior to him, however, the financial benefits were calculated only with effect from 01.07.2022 instead of from the date when such benefits were originally due. It is contended that no fault lay with the petitioner and instead the respondents failed to recommend his appointment despite his higher merit position. The petitioner was thus forced into unnecessary litigation and even had to initiate contempt proceedings before receiving his rightful dues. Learned counsel submits that, despite succeeding in the proceedings, the petitioner continues to suffer prejudice since the benefits have been wrongfully withheld and are yet to be fully released.

5. Learned State counsel, on the other hand, contends that the petitioner has concealed the true facts. It is submitted that the Haryana Staff Selection Commission formally recommended the name of the petitioner for appointment only on 25.05.2022, subsequent to which the final appointment



order was promptly issued on 01.07.2022. The financial benefits, therefore, are liable to be extended to the petitioner only with effect from the date of his formal appointment, as he cannot claim benefits for any period prior thereto during which he did not actually serve.

6. Further, it is contended that the direction to recommend the petitioner's appointment to the post of Water Pump Operator Grade-II was issued to the Haryana Staff Selection Commission, which has not been impleaded as a party in the present proceedings. The Commission made the formal recommendation only on 25.05.2022, and without any untoward delay, the appointment order was issued in quick succession on 01.07.2022. Consequently, any liability arising from delay cannot be attributed to the respondent-Department, as the omission or delay is solely attributable to the Haryana Staff Selection Commission.

7. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition with their able assistance.

8. It remains undisputed that the petitioner had applied for the post of Water Pump Operator Grade-II under the EBPG category, and that the last selected candidate in this category had secured 116 marks as against the petitioner who had secured a total of 136 marks i.e. significantly higher than the last selected candidate. However, the petitioner's recommendation was withheld on the grounds that he had not submitted the sports gradation certificate, and that the EBPG certificate appended to his application was issued by the Tehsildar, Kaithal, vide certificate No. EBPG/2017/428 dated



11.04.2017, which was after the cutoff date for submission of the online application, i.e., 15.02.2017.

9. The aspect of delay in submissions of document was considered while hearing CWP-9110-2018. This Court specifically observed that the petitioner had attached and uploaded the earlier EBPB certificate dated 16.07.2014 along with his application form, which had been issued prior to the cutoff date of 15.02.2017. The subsequent certificate dated 11.04.2017 was produced by the petitioner only during the document verification and scrutiny. It was therefore clear that the petitioner was in possession of a valid EBPB certificate, and there was no dispute regarding his belonging to the EBPB category. Furthermore, the respondent authorities also neither challenged the authenticity or validity of the EBPB certificate dated 16.07.2014 nor did they suggest or allege that the petitioner did not fulfill the terms and conditions for its issuance.

10. Accordingly, it was so held that the petitioner rightfully continued to belong to the EBPB category and that a valid certificate was duly appended. As regards the second ground for rejection-namely, the absence of an outstanding sports person certificate from the competent authority and the presence only of a participation certificate-this Court specifically ruled that such deficiency was immaterial. This was because no benefit or reservation was available or claimed by the petitioner on account of his sports achievements and no marks or weightage was claimed under this category. In view of these findings, the Court, vide its order dated 13.01.2020 in CWP-9110-2018, directed respondent No.1-the Haryana Staff



Selection Commission-to recommend the petitioner's appointment to the post of Water Pump Operator Grade-II within fifteen days from the date of receipt of the certified copy of the order. Thereafter, the Public Health Engineering Department was directed to issue the appointment letter to the petitioner within the subsequent fifteen days.

11. Although the respondents contended that the delay in making the recommendation was attributable to the Haryana Staff Selection Commission itself, however, undisputedly the Commission as well as the respondent-Department operate as wings of the State Government. Consequently, benefits lawfully accruing to an individual cannot be permitted to be withheld merely because one organ of the State failed to comply with the first part of the directions issued by this Court.

12. It is also undisputed that the Haryana Staff Selection Commission had filed an LPA against the judgment dated 13.01.2020, in which the decision w.r.t. appointment in favor of the petitioner was upheld. Notwithstanding the Division Bench's judgment rendered on 03.12.2021 affirming the petitioner's entitlement, the Commission's recommendation was made belatedly on 25.05.2022-after a delay of approximately five months.

13. The petitioner, who stood higher in the order of merit, was thus proved to have been wrongfully deprived of his appointment which was also unreasonably delayed due to the acts and omissions of the respondent authorities. Denial of the benefits corresponding to the period for which the petitioner was deprived of his rightful appointment and consequential



benefits would amount to imposing of a double penalty.

14. It would be a travesty of justice to rule that even though the petitioner was not at fault in being deprived of his appointment, yet, the State would be absolved of any consequences or liabilities. It amounts to be an approval of the State conduct refusing to take responsibilities of its action. Such benevolence at the cost of the citizen only condones negligent attitude and response of the State while the rightful citizen struggles to claim his dues knocking from one jurisdiction to another. The lawful right of a meritorious candidate claiming appointment cannot be left at the sweet whims of State agency which feels it has nothing to lose in delaying the right. It is true that consequences are defined and responsibilities fixed. It is also not in dispute that in the process of appointment, the first step i.e. recommendation was to be made by the Haryana Staff Selection Commission, which is not a party here. I am of the view that the same may not have any fatal effect since the reason of delay i.e. filing of LPA is not in dispute. There is no other reason assigned. The other reason may only be ministerial decision making process seeking reports and opinions from various offices. At the end of the day the Haryana Staff Selection Commission as well as the Department are both wings of the Government. The *inter se* dispute between the Department and the Haryana Staff Selection Commission or as to who should be held liable, should not be permitted to stand between the petitioner and his relief. The respondent-Department may, if so advised, seek enforcement of its claims from the Haryana Staff Selection Commission. The prolonged maze of bureaucratic



red-tapism cannot be cited as an impenetrable shield to word of responsibility arising out of inaction.

15. However, regarding the question of whether the petitioner is entitled to notional benefits of pay and allowances with effect from the date on which candidates lower in merit were appointed or alternatively from some other date. This Court feels that at the time when the petitioner's claim was allowed in CWP-9110-2018, the question of granting notional benefits from the date of appointment of his juniors was not granted or so directed by the Single Judge. The direction was confined as a prospective direction for appointment. Therefore, any entitlement to the notional benefits, prior to the date of the judgment lay exclusively within the domain of the Writ Court deciding CWP-9110-2018. This Court would not transcend the boundaries and directions of the earlier judgment by extending benefits beyond those expressly granted, as doing so may amount to judicial overreach and may not be in conformity with principles of judicial discipline and propriety, however, the direction to issue appointment entailed of a total period of 30 days.

16. Hence, the writ petition is **partly allowed**. The respondents are directed to grant to the petitioner, notional benefits of pay and allowances with effect from 12.02.2020 i.e. thirty days after the judgment dated 13.01.2020. The actual financial benefits shall, however, be payable only from the date of the petitioner's formal appointment.

17. Let the respondents undertake the calculation of the admissible benefits and compute the same within a period of two months of the receipt



of a certified copy of this order. The admissible financial benefits, based on such recalculation, are directed to be released to the petitioner within a further period of two months. In the event of failure to comply with the aforesaid timelines, the petitioner shall be entitled to interest at the rate of 6% per annum for the period of delay. The Government shall be at liberty to recover the same from the erring official(s).

(VINOD S. BHARDWAJ)
JUDGE

22.05.2025
Mangal Singh

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