



**241-6 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-13968-2022

Date of decision: 14.10.2025

Jagdish Chand

....Petitioner

Versus

Haryana State Warehousing Corporation and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner.

Mr. Padam Kant Dwivedi, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of *Certiorari* to quash the impugned termination order dated 13.06.2022 (Annexure P-9) issued by the Respondents, whereby the services of the petitioner as Manager Grade-II were terminated. It is further prayed that a writ in the nature of Mandamus or any other appropriate writ, order, or direction be issued declaring that the appointment of the petitioner as Manager Grade-II, made on 05.02.2010 (Annexure P-3), does not suffer from any infirmity.

FACTUAL BACKGROUND

2. Briefly stated, the genesis of the present dispute lies in an advertisement (Annexure P-1) published by the Haryana State Warehousing Corporation on 29.08.2009, inviting applications for four (4) posts of Manager Grade-II. The break-up of the posts was as follows:

a. Two posts for the General Category.



b. One post for the SC Category.

c. One post for the BCA category

3. The petitioner, being fully eligible, applied for a post under the **General Category**. A duly constituted Selection Committee interviewed the candidates and, vide its proceedings (Annexure P-2) dated 30.01.2010, selected the petitioner. The selection list (Annexure P-2) explicitly shows the petitioner was selected at Merit No. 2 under the General Category, alongside one Mr. Yatendra Veer Tyagi at Merit No. 1. One Mr. Mukesh Kumar Singhmar was selected against the SC category post, and Mr. Rajeshwar Kumar against the BCA category post.

4. Consequent to his selection, the petitioner was issued an appointment letter (Annexure P-3) dated 05.02.2010 for the post of Manager Grade-II. The petitioner accepted the appointment and joined the service on 03.03.2010. He continued in service without any blemish to his record. The petitioner successfully completed his probation period, which was duly declared vide letter (Annexure P-4) dated 14/25.03.2013. However, Mr. Mukesh Kumar Singhmar, the candidate selected against the lone SC category post, submitted his resignation on 10.02.2011 (Annexure P-5) after being selected as an Agriculture Development Officer in the Haryana Agriculture Department.

5. The petitioner continued his service and, as per the provisional gradation list of Manager Grade-II (Annexure P-6) showing the position as on 01.12.2013, the petitioner was the second senior-most official in that cadre. After more than 12 years of uninterrupted service, the petitioner was suddenly issued a Show Cause Notice dated 29.04.2022 (Annexure P-7). The sole ground



for the notice was an allegation that the petitioner's selection in 2010 was made against the "roster point meant for the SC category," and not against the General Category as he had applied for and believed he was selected under.

6. The petitioner submitted a detailed and reasoned reply (Annexure P-8) dated 23.05.2022. In his reply, he contested the allegation, relying on the advertisement (P-1), the selection proceedings (P-2), and his appointment letter (P-3) to assert that he was rightfully selected and appointed under the General Category. He also highlighted that the reserved SC category post was, in fact, vacant after the resignation of Mr. Mukesh Kumar Singhmar.

7. Disregarding his submissions, the Respondent-Corporation passed the impugned order of termination dated 13.06.2022 (Annexure P-9), which was conveyed to the petitioner on 15.06.2022. The order terminated the petitioner's services on the ground that he was wrongly appointed against a post reserved for the SC category. Aggrieved by this termination, which came after over 12 years of service, the petitioner has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India. This Court, vide its interim order dated 07.07.2022 stayed the operation of the impugned termination order during the pendency of the writ petition.

CONTENTIONS

8. Learned counsel for the petitioners *inter alia* contends that a bare perusal of the advertisement (P-1) and the selection committee proceedings (P-2) unequivocally demonstrates that the petitioner applied, was interviewed, and was selected under the General Category. The averment in the impugned order (P-9) that he was selected against an SC category roster point is patently wrong, baseless, and constitutes the very foundation of the illegal termination. The



advertisement clearly stipulated 2 posts for General Category and 1 post each for SC and BCA. The selection was made strictly in accordance with this advertisement. Furthermore, it was argued that as per the settled law on reservation, out of a total of 4 posts, more than 50% cannot be reserved for reserved categories. Appointing the petitioner against a General Category post was, therefore, perfectly legal and in conformity with the constitutional scheme of reservation.

9. It was argued that terminating the services of an employee after he has rendered over 12 years of satisfactory service, has successfully completed probation, and has become the second senior-most in his cadre, is per se arbitrary and illegal. Reliance was placed on judgments of the Hon'ble Supreme Court in ***Gujarat State Dy. Executive Engineers Association v. State of Gujarat 1994 Supp (2) SCC 591***, ***Buddhi Nath Chaudhary & Ors. V. Akhil Kumar & Ors. (2001) 3 SCC 328***, and ***Dr. M.S. Mudhol & Anr. V. S.D. Halegkar & Ors. (1993) 3 SCC 591***, where the Courts, in equitable considerations, refused to disturb appointments/ seniority of incumbents who had served for long periods, even if some infirmity was alleged at the initial stage of selection.

10. It was further submitted that the Respondent-Corporation was obligated to follow the procedure prescribed under the applicable Punishment and Appeal Rules and should have conducted a full-fledged departmental enquiry. The issuance of a mere show-cause notice and a personal hearing does not satisfy this requirement. Moreover, the learned counsel argued that there is no dispute with respect to the petitioner's lack of essential qualification; instead, the sole controversy pertains to the appointment of the petitioner



against the post reserved for SC category.

11. *Per Contra*, learned counsel for respondents submits that as per the Corporation's roster register, the post against which the petitioner was appointed was, in fact, earmarked for the Scheduled Caste (SC) category. The petitioner, despite having applied under the General Category, was erroneously and illegally appointed against this reserved post. This fundamental illegality in the very inception of his appointment vitiates his entire service.

12. It was submitted that the illegality came to light following a complaint by an RTI activist, Sh. Ravinder Kumar, regarding illegal appointments in the Corporation. Pursuant to this, the State Government, vide letter dated 25.07.2016 (Annexure R-2), directed a fact-finding inquiry to be conducted and a revised report was submitted on 21.08.2020 (Annexure R-3). Subsequently, a complaint was filed before the Haryana Lokayukta, which vide order dated 24.01.2022 (Annexure R-4), directed a fresh inquiry. Following government directives (Annexures R-5, R-6, R-7), the Corporation constituted a Committee vide order dated 22.04.2022 (Annexure R-8). This Committee, in its report dated 26.04.2022 (Annexure R-9), found the petitioner's appointment to be wrongful.

13. Learned counsel submitted that based on the Committee's report, a show-cause notice was issued to the petitioner on 29.04.2022. The petitioner submitted a detailed reply and was also granted a personal hearing on 23.05.2022. After considering his representation, which was found to be unsatisfactory, the impugned order of termination was passed on 13.06.2022. Thus, the principles of natural justice were scrupulously followed. Furthermore, it was contended that the petitioner, at the time of application, furnished a



declaration that his candidature would be cancelled and action would be taken against him if any ineligibility was detected at any stage. The discovery of the roster point illegality falls squarely within this clause, justifying the termination.

OBSERVATION & ANALYSIS

14. I have heard the learned counsel for the parties and have perused the record with their able assistance. This Court is of the considered opinion that the petitioner in the present case has neither acted fraudulently nor misrepresented his qualifications and personal details at the time of submitting the application form or at any stage thereafter. The appointment of the petitioner was the culmination of a rigorous and multi-tiered selection process wherein their candidature along with the detailed service record and professional experience, was subjected to a thorough scrutiny.

15. The petitioner had applied for the post under the General Category. Ultimately, a duly constituted Selection Committee interviewed the candidates and, vide its proceedings dated 30.01.2010 (Annexure P-2), filled all four posts of Manager Grade-II. The selection list (Annexure P-2) clearly reflects that the petitioner was selected under the General Category, along with Mr. Yatendra Veer Tyagi, while Mr. Mukesh Kumar Singhmar and Mr. Rajeshwar Kumar were selected against the SC and BCA category posts, respectively. The relevant part of the selection list dated 30.01.2010 is reproduced as under:

“The Committee recommends the name of the following candidates in order of merit for appointment to the posts of Manager Grade-II.



<i>Sr.No.</i>	<i>Name of Candidate</i>	<i>Reserved Category</i>	<i>Total Marks 30</i>
1.	<i>Yatendra Veer Tyagi</i>	--	20.1
2.	<i>Jagdish Chand</i>	--	19.2
3.	<i>Mukesh Kumar Singhmar</i>	SC	16.9
4.	<i>Rajeshwar Kumar</i>	BCA	16.4"

(Emphasis supplied)

16. In view of the above, this Court does not find merit in the contention advanced by the learned counsel of the Respondents that even though the petitioner had applied for the post under the General category, he was selected against the roster point meant for SC category. It must also be pointed out that the Committee Report dated 26.04.2022 (Annexure R-9) does not record any finding suggesting that the petitioner acted fraudulently or was in any manner responsible for the alleged illegality in the appointment.

17. The petitioner, having been appointed in 2010, has rendered more than fifteen years of continuous and satisfactory service to the Respondent-Corporation under the protection of this Court's interim orders. As discussed hereinabove, since there is no evidence of fraud or misrepresentation on the part of the petitioner, he is entitled to the protection guaranteed under Article 311 of the Constitution of India and his services cannot be terminated without subjecting him to an appropriate disciplinary proceedings as per relevant service rules. A Two-Judge Bench of the Hon'ble Supreme Court in ***Kamal Nayan Mishra v. State of M.P. 2010(1) SCT 624*** speaking through Justice R. V. Raveendran, has observed as follows:

*"11. ...It is contended that as the attestation form stated that an employee could be terminated without notice, if he furnishes false information, the employee is estopped from objecting to termination without notice. **The said contention may merit acceptance in the case of***



a probationer, but not in the case of a confirmed Government servant. No term in the attestation form, nor any consent given by a Government servant, can take away the constitutional safeguard provided to a Government servant under Article 311 of the Constitution...” (Emphasis supplied)

18. As per Regulation 15 of The HSWC (Officers and Staff) Regulations, 1994, matters concerning conduct, discipline, and penalties applicable to employees are governed by the Government Employees (Conduct) Rules, 1966 and the Haryana Civil Services (Punishment and Appeal) Rules, 2016 (hereinafter, “2016 Rules”). Consequently, the major penalty of termination can be imposed only after strict compliance with the procedural safeguards prescribed under Rule 7 of the 2016 Rules, and not merely on the basis of a show-cause notice. In the present case, no charge-sheet has been issued to the petitioner, nor has any inquiry officer been appointed. Accordingly, the petitioner’s termination order stands vitiated for non-compliance with the mandatory procedure and is liable to be set aside on this ground.

19. Moreover, it is settled law that when there is no misrepresentation or concealment by a candidate at the time of appointment, and the Selection Committee, upon due consideration, found him suitable for the post, it would be unjust and unduly harsh to penalize such an employee after he has rendered long years of service merely on the ground of some defect in the selection process. The Division Bench of this Court in *Varinder Hans v. Union of India* **2019(4) SCT 513** relied on the judgements of the Hon’ble Supreme Court and observed as follows:

“14. From the above, it is clear that there is no allegation of any misrepresentation on the part of the petitioner. The documents



submitted by him were duly scrutinized. He was found eligible. He appeared for the interview. His skill at caning was put to test. He secured the maximum marks. The expert who evaluated the skill of the candidates did not find the petitioner lacking in any manner. He was recommended for appointment and joined on 5.2.2014. He was terminated on 1.10.2015 after he had worked for about one year and eight months. There is no observation that he was lacking in skill or that his work at the PGI was not upto the standards.

15. Hon'ble Supreme Court in Dr. M.S. Mudhol v. Shri S.D. Halegkar 1993 (3) SCC 591 held that where there was no misrepresentation by a candidate, and despite his not possessing the qualifications he had been appointed and had worked for considerable time it would be iniquitous to disturb him. It was observed as under:

"6. Since we find that it was the default on the part of the 2nd respondent, Director of Education in illegally approving the appointment of the first respondent in 1981 although he did not have the requisite academic qualifications as a result of which the 1st respondent has continued to hold the said post for the last 12 years now, it would be inadvisable to disturb him from the said post at this late stage particularly when he was not at fault when his selection was made. There is nothing on record to show that he had at that time projected his qualifications other than what he possessed. If, therefore, in spite of placing all his cards before the selection committee, the selection committee for some reason or the other had thought it fit to choose him for the post and the 2nd respondent had chosen to acquiesce in the appointment, it would be inequitable to make him suffer for the same now. Illegality, if any, was committed by the selection committee and the 2nd respondent. They are alone to be blamed for the same."

16. The Hon'ble Supreme Court in Bhagwati Prasad and ors. v. Delhi State Mineral Development Corporation 1990(1) SCC 361 held that even where the candidates did not possess the essential qualifications but they have worked and gained sufficient experience it would be harsh to deny them confirmation on the ground that they lacked essential qualifications. Hon'ble Court observed as under:

"6. The main controversy centers round the question whether some petitioners are possessed of the requisite qualifications to hold the posts so as to entitle them to be confirmed in the respective posts held by them. The indisputable facts are that the petitioners were appointed between the period 1983 and 1986 and ever since, they



have been working and have gained sufficient experience in the actual discharge of duties attached to the posts held by them. Practical experience would always aid the person to effectively discharge the duties and is a sure guide to assess the suitability. The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but it is so at the time of the initial entry into the service. Once the appointments were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications... (Emphasis supplied)

20. Reliance can also be placed on the judgments of the Division Bench of this Court in *Sarabjeet Kaur Dhaliwal v. Punjab Agricultural University 2003 (4) S.C.T 132* and *Bidhi Chand v. The Uttar Haryana Bijli Vitran Nigam 2002(4) SCT 1028*.

CONCLUSION

21. In view of the foregoing discussion, the present petition(s) are allowed. The impugned termination order dated 13.06.2022 (Annexure P-9) is hereby quashed and set aside. The petitioner would be entitled to all consequential benefits. Pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

14.10.2025

Neha

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