
(2001) 11 P&H CK 0131
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7273 of 2001

Abhimanu and Others

APPELLANT

Vs

The Union Territory of Chandigarh and Another

RESPONDENT

Date of Decision : 06-11-2001

Acts Referred:

Industrial Disputes Act, 1947 — Section 25H

Citation : (2001) 11 P&H CK 0131

Hon'ble Judges : Mehtab S. Gill, J

Bench : Single Bench

Advocate : D.V. Sharma, for the Appellant; K.K. Gupta, for the Respondent

Final Decision : Allowed

Judgement

Mehtab S. Gill, J.—The petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the advertisement dated February 3-9, 2001 (copy Annexure P-12) and have further prayed for issuing a writ in the nature of mandamus directing the respondents to re-appoint them as Peons/Chowkidars against the posts lying vacant in the Bank.

2. The petitioners have averred that the Chandigarh State Cooperative Bank Limited, Chandigarh, (hereinafter referred to as "the Bank") (respondent No.3) is a Cooperative Society registered under the provisions of the Punjab Cooperative Societies Act, 1961. They were appointed as peons in the Bank on probation for a period of one year. Shri Abhimanu (petitioner No. 1) was appointed as peon on April 2, 1998 (copy Annexure P-1). Shri Surinder Singh (petitioner No. 2) was appointed as peon on April 2, 1998 (copy Annexure P-2). Shri Davinder Singh (petitioner No.3) was appointed as peon on April 2, 1998 (Copy Annexure P-3), Shri Raj Pal (petitioner No. 4) was appointed as peon on April 2, 1998 (copy Annexure P-4), Shri Jasbir Singh (petitioner No.5) was appointed as peon on April 2, 1998. It has been further averred that the Board of Directors of the Bank was removed by the Registrar, Cooperative Societies, Union Territory, Chandigarh and an Administrator was appointed. On joining his duties, the Administrator

terminated the services of the petitioners on the ground that they were appointed beyond the sanctioned strength. Copies of the termination orders dated November 21, 1998 are attached with the writ petition as Annexure P-6 to P-10 respectively. It has been farther averred that this is factually wrong as the posts were duly sanctioned by the Board of Directors. Further these posts had fallen vacant on account of promotion of Class IV employees. The petitioners had filed Civil Writ Petition No. 17994 of 1998 along with some junior clerks titled Jasmer Singh and Ors. v. The Chandigarh State Cooperative Bank Limited and Anr.. This writ petition was dismissed by a Division Bench of this Court vide order dated December 18, 1998, a copy of which is attached with the writ petition as Annexure P-11. The bank has now advertised six posts of Peons and one post of Chowkidar in the Employment News of February 3, 9, 2001. A copy of the advertisement is attached with the writ petition as Annexure P-12.

3. It has been further averred that the petitioners had fulfilled the qualifications required for the posts of Peons and Chowkidar. Before these could be advertised, the Bank was required to offer the posts to them in view of the provisions of Section 25-H of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act").

4. Notice of motion was issued to the respondent.

5. Written statement was filed by respondent No.3-Bank.

6. Counsel for Respondent No.3-Bank while reiterating the stand taken in the written statement has contended that as the Bank is not an "Industrial established", so the provisions of Section 25(H) of the Act under which the petitioners are seeking re-employment are not applicable in the case of respondent-Bank.

7. I have heard the learned counsel for the petitioners and the respondents.

8. Learned counsel for the petitioners has stated that before making the advertisement (Annexure P-12) in the newspaper for filling up the posts of Peons and Chowkidar, the first offer should have been made to the present petitioners as per the provisions of Section 25-H of the Act. He has further stated that as the advertisement is dated February 9, 2001 and the last date for submission of the applications was February 10, 2001 and also the fact that the advertisement was also got published in such a newspaper which is not widely circulated, has prejudiced the rights of the petitioners and other applicants, who wanted to come forward and apply for the job.

9. Learned counsel for the petitioners drew my attention to the termination order dated November 21, 1998 (copy Annexure P-10) and contended that this is a retrenchment order, which is squarely covered under the provisions of the Act.

10. The advertisement (Annexure P-12) which has been placed on the record is not dated February 9, 2001, but it is of dated 3-9-2001, thus showing that the advertisement was given on February 3, 2001. This aspect has been conceded by

the petitioners in para S of their petition wherein they have stated that the Bank has advertised six posts of Peons and one post of Chowkidar in the Employment News of February 3.9.2001. Thus, the petitioners had got seven days" time to apply for those posts. The advertisement was published in the Newspaper, i.e., the Employment News, which comes out on every Saturday. As per this advertisement, learned counsel for the respondents has stated that approximately more than 2400 applications were received. I do not find any merit in the submission of the learned counsel for the petitioners while contending that they did not have any time to put in the applications for the posts of Peons and Chowkidar with the Bank.

11. Learned counsel for the respondents has drawn my attention to the copy of judgment (Annexure P-11) passed in Civil Writ Petition No. 17994 of 1998 which was filed by these very petitioners along with some other employees of the respondent-Bank on the very same grounds and it was dismissed by a Division Bench of this Court vide order dated December 18, 1998 and this case has also been reported as Jasmer Singh and Ors. v. The Chandigarh State Cooperative Bank Ltd. and Anr. 1999 2 RSJ 237.

12. Against the judgment dated December 18, 1998 passed by a Division Bench of this Court, a SLP was filed before the Apex Court which was dismissed and the petitioners cannot now come forward again and reagitate their rights. The petitioners were appointed on April 2, 1998. The posts on which the petitioners had been appointed were sanctioned on December 3, 1998, thus showing that they were working on the posts of Peons/Chowkidar which were not sanctioned.

13. Learned counsel for the petitioners has drawn my attention to a number of judgments rendered in the cases of Central Bank of India Vs. S. Satyam and others, ; Rajbir Singh and Ors. v. State of Haryana and Ors. 1983 (1) S.L.R. 38; The Nawanshahr Central Co-operative Bank Ltd. v. The Presiding Officer, Labour Court, Jullunciar and Anr., 1980(3) S.L.R.358 and B. Ashok and Ors. v. Chairman food Corporation of India and Ors. 1996 (3) S.L.R. 486. In support of his contention, learned counsel for the respondents has placed reliance upon the judgments rendered in the cases of Jasmer Singh and Ors. v. The Chandigarh State Cooperative Bank Ltd. and Anr. . 1999 2 RSJ 237; The Sonapat Cooperative Sugar Mills Ltd., Sonapat (Haryana) v. Shri Daya Singh and Anr. 1988 93 P.L.R 394; Usha Rani v. The State of Punjab and Anr. 1984 (1) S.L.R. 356; and R.S. Doon v. Central Administrative Tribunal, Chandigarh Bench, Chandigarh and Ors. 2001 129 P L R 286. In none of the authorities cited by the learned counsel for the petitioners, it comes out that the Chandigarh State Cooperative Bank Limited, Chandigarh is an "Industrial establishment" or whether it falls within the definition of an Industry as envisaged in the Act. Therefore, the authorities, as cited above, are not applicable to the facts of the case in hand.

14. With the above observations, the writ petition fails and is hereby dismissed. However, parties are left to bear their own costs.