

(2008) 01 P&H CK 0142
In the Punjab And Haryana At Chandigarh

Amir Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 17-01-2008

Acts Referred:

Citation : (2008) 01 P&H CK 0142

Hon'ble Judges : Jaswant Singh, J; Jasbir Singh, J

Bench : Division Bench

Judgement

Jasbir Singh, J.—By filing this writ petition, the petitioner has laid challenge to the order dated December 7, 2006 (Annexure P-8), vide which his service as S.S. Master was terminated. It is not in dispute that in the year 1999, besides others, 129 posts of S.S. Masters reserved for B.C."B" category were advertised. Petitioner went through necessary selection process and after declaration of result, his name was put in the waiting list. When some of the selected candidates did not join, vacant post was offered to the petitioner vide order Annexure P-3. In response to the offer made, petitioner joined the service. In the meantime, two candidates Subey Chand and Laxmi Narain filed writ petitions in this Court, bearing No. 5566 of 2005 and 2909 of 2005 respectively alleging therein that they had secured higher marks in the category of B.C."B" candidates than the persons to whom appointment has been given. Their writ petitions were allowed vide order dated February 16, 2006, and the concerned authorities were directed to reframe the merit list and appoint the above said two persons, against the posts of S.S. Masters. Thereafter, as per admitted position, the names of Subey Chand and Laxmi Narain were put at Sr. Nos. 722-A and 875-A respectively in the merit list of B.C."B" category candidates. It is also an admitted fact that the petitioner's name figured at Sr. No. 1210 in the select list and he was the last appointed candidate. In view of that, after giving show cause notice, his service was ordered to be terminated vide the impugned order.

2. Before the authorities below, it was contention of the petitioner that two posts reserved for B.C."B" category, out of the posts advertised in the above said

advertisement, were lying vacant as one Pardeep Kumar at Sr. No. 1200 and Davender Kumar at Sr. No. 1065 in B.C."B" category had not joined as S.S. Masters. However, his prayer to adjust him against those posts was rejected on the ground that the validity of the waiting list has expired. Hence this writ petition.

3. After hearing counsel for the parties, we are satisfied that in view of peculiar facts and circumstances, if any post was lying vacant when order Annexure P-8 was passed, out of the advertised posts reserved for B.C."B" category, it was duty of the respondents to adjust the petitioner against one of those posts. His claim was declined simply by saying that validity of the merit list has expired. We are not convinced with the reasoning given. The petitioner, in fact, was appointed as S.S. Master. However, on account of order passed by this Court on February 16, 2006, his service was ordered to be terminated on December 7, 2006.

4. In view of facts, mentioned above, no fault lies with the petitioner if in the meantime, validity of the merit list had expired. The petitioner has also submitted in this writ petition that some candidates, who were lower in the merit, were given appointment and this fact has not been specifically denied by the respondents.

5. In view of facts, mentioned above, we dispose of this writ petition by issuing directions to the respondents to give appointment to the petitioner in case any post, out of the advertised reserved for B.C."B" candidates, was lying vacant, when order Annexure P-8 was passed on December 7, 2006, and also if any person lower in merit as compared to the petitioner was retained in service. Necessary exercise be made within a period of two months from the date of receipt of certified copy of this order. Consequently, order Annexure P-8 stands quashed qua the petitioner. It is made clear that if it is found that post was lying vacant before Annexure P-8 was passed, the petitioner be also given consequential benefits like continuity of service. Counsel for the petitioner concedes that the petitioner will not claim any financial benefits for the intervening period.