
(2011) 05 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 343 of 2011 (O and M)

Devinder Singh

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Citation : (2011) 05 P&H CK 0009

Hon'ble Judges : M.M. Kumar, J;Gurdev Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The instant appeal under Clause X of the Letters Patent is directed against judgment dated 10.9.2009 rendered by the learned Single Judge dismissing the writ petition filed by the Appellant. It has been held that the Appellant was selected and appointed on the post of Chowkidar in Military Engineers Service ("MES") on 23.2.2000 (P-2). However, the selection of Chowkidar was quashed by the Chandigarh Bench of the Central Administrative Tribunal (for brevity, "the Tribunal"), vide order dated 3.7.2002 (P-3), with a direction that the candidates who were selected as a result of the interview held on 7.2.2000 would be entitled to participate in the fresh selection process to be undertaken by the Respondent authorities. The order dated 3.7.2002 passed by the Tribunal has been upheld by this Court vide order dated 11.7.2002 rendered in CWP Nos. 13390, 10375 and 10378 of 2002. Even the SLP filed against the order dated 11.7.2002 was dismissed by Hon'ble the Supreme Court vide order dated 11.12.2002 (R-2). Hon'ble the Supreme Court also observed that those of the persons who were continuing may be permitted to continue until a fresh selection is made and they are to be replaced by duly selected candidates. However, such continuation was not to confer any additional right. Accordingly, the test which was held in pursuance to the said direction of the Tribunal, the Appellant failed to qualify.

2. The learned Single Judge has observed that the Petitioner-Appellant firstly

served a legal notice and then filed CWP No. 9232 of 2007 in this Court. On 19.7.2007, a Division Bench of this Court disposed of the said writ petition directing the Respondent authorities to decide the legal notice/representation made by the Petitioner-Appellant. On 28.1.2008, the Respondent authority passed an order observing that the selection on the post of Chowkidar was quashed by the Tribunal vide order dated 3.7.2002 (P-3). Thereafter the Petitioner-Appellant was afforded reasonable opportunity to qualify the test which was held for appointment to the post of Chowkidar but he failed to clear the test and was not selected. In fact, the Petitioner-Appellant did not participate in the interview. The aforesaid fact has not been disputed because the excuse put forward by the Appellant was that he could not appear in the interview as he had a sleepless night on account of his duty.

3. Having perused the memorandum of appeal and the judgment of the learned Single Judge we are of the considered view that the appeal is wholly without merit and does not deserve admission. Once the selection of the post of Chowkidar was set aside by the Tribunal vide order dated 3.7.2002 and in the fresh selection process the Petitioner-Appellant has been given a chance by the Respondent authorities to clear the test, it would not now lie in the mouth of the Appellant to claim that he could not appear in the interview on account of sleepless night spent on duty. In any case, he fails to qualify despite opportunity given as per the direction issued by the Tribunal. There is, thus, no merit in the appeal. Dismissed.