
(2009) 04 P&H CK 0219
In the Punjab And Haryana At Chandigarh

Jaswant Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-04-2009

Acts Referred:

Citation : (2009) 04 P&H CK 0219

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—The petitioner, by way of this civil writ petition, prays for issuance of a writ in the nature of certiorari quashing order dated 20.3.2003 (Annexure P-16) and further for issuance of a writ in the nature of mandamus directing the respondents to reinstate the petitioner on Class-IV post i.e. alternative job or Class-IV job, or to grant job to the petitioner in the light of directions issued in Civil Writ Petition No. 2913 of 1995, decided on 13.5.1996.

2. It transpires that the petitioner passed his matriculation in 2nd division and, thereafter, passed ITI 2 Years" Diploma Course in the trade of Motor Mechanic from ITI, Patiala. The petitioner was enrolled in CRPF as Constable/Fitter at 30th BN CRPF at Phagwara. He joined duty on 5.8.1989 and worked for about 15 days. Thereafter, the petitioner was sent to Group Centre, Nagpur in August, 1989 and completed 9 months training, whereafter he was posted at Nagpur itself in January, 1991. The petitioner served till 19.2.1993 when his services were terminated vide order dated 19.2.1993 (Annexure P-1). The reason given for termination of service of the petitioner, as given out in Annexure P-1, is that the petitioner was physically unfit for continuing in service, as per opinion of Chief Medical Officer. Learned Counsel for the petitioner has clarified that the petitioner had a squint and, therefore, a medical infirmity.

3. The petitioner filed a first appeal before respondent No. 3 i.e. Deputy Inspector General of Police, CRPF, Nagpur (Maharashtra) which, however, was

dismissed vide order dated 23.11.1993.

4. Thereafter, a representation was filed. Respondent No. 3, vide order dated 9.12.1993 conveyed to the petitioner that his appeal had not been entertained by the IGP, CRPF, New Bombay. The petitioner filed Civil Writ Petition No. 2913 of 1995 in this Court directed against order dated 23.11.1993 which was disposed of vide order dated 13.5.1996. Exact reference to the order is necessary for adjudication of this matter. The order reads as under:

After hearing the learned Counsel for the parties, we are of the view that in view of the opinion of the Medical Board (copy at Annexure P.1), this case calls for no interference. However, if the petitioner is not fit for the job of Constable/Fitter because of squint in his left eye, the respondents are given three months' time to consider the case of the petitioner for any other alternative job, even a class-IV job, for which he may be eligible, despite the squint in his left eye. The writ petition stands disposed of.

A copy of the order, attested by the court Secretary, be given to the counsel for the respondents for compliance.

5. Respondent No. 4 wrote a letter dated 26.7.1996 to the petitioner offering an appointment as Water Carrier in CRPF in compliance of order dated 13.5.1996 passed by this Court in Civil Writ Petition No. 2913 of 1995. The petitioner did not accept the offer.

6. The petitioner, on the contrary, requested respondent No. 4 that he may be given alternate job of Motor Mechanic, Store Keeper or other Class-III post. He, however, refused to join as Class-IV employee. This fact has been mentioned in Para 18 of the writ petition.

7. It seems that the petitioner kept on representing the claim for Class-III post. Be that as it may, the petitioner filed yet another petition namely Civil Writ Petition No. 9615 of 2002 and prayed for appointment on Class-III post. The writ petition was dealt with and disposed of vide order dated 1.7.2002. For exact reference, the order reads as under:

We find that no substantial relief can be given to the petitioner in the light of the orders already made by this Court in CWP No. 2913 of 1995 decided on 13.5.1996, copy Annexure P-2 with this writ petition. The petitioner's counsel, however, contends that the petitioner's case has not so far been considered and the representations filed by him have not been decided. We accordingly dispose of the writ petition with the direction to the respondents that in case the representations have not been considered, the same shall now be considered within a period of three months from the date that a certified copy of the order is supplied to the authority concerned.

8. The present petition essentially has been filed on the same ground for the same claim. At this stage, however, learned Counsel for the petitioner states that the petitioner is willing to accept Class-IV post also.

9. I have considered the contentions of the learned counsel.

10. The claim made in this petition or in the earlier petitions referred to above, is essentially for setting aside the order of termination or for alternate appointment. In effect, the issue has been dealt with by Division Bench of this Court at two points in time, as is evident from the above portion of this order.

11. On perusal of Order dated 13.5.1996 passed in Civil Writ Petition No. 2913 of 1995, it becomes evident that the opinion of the Medical Board calls for no interference. Consequently, it follows that the order of termination was upheld as it was passed in view of the report of the Medical Board. The respondents, however, were given three months' time to consider the case of the petitioner for any alternate job, even Class-IV job for which he may be eligible despite squint in his left eye. In deference to the order, indeed, the petitioner was offered a Class-IV post, which the petitioner did not accept.

12. A perusal of order dated 1.7.2002 passed in Civil Writ Petition No. 9615 of 2002 shows that it was made clear by this Court to the petitioner that no substantial relief can be given to the petitioner in the light of orders already made by this Court in Civil Writ Petition No. 2913 of 1995, decided on 13.5.1996. For the same reason, extraordinary writ jurisdiction cannot be entertained at this juncture also.

13. So far as acceptance of Class-IV post is concerned, since the offer was made as far back as in 1996, after a gap of 13 years, no directions can be issued to the respondents in that regard at this belated stage.

14. In view of the orders passed by Division Bench of this Court (Order dated 13.5.1996 in Civil Writ Petition No. 2913 of 1995 and Order dated 1.7.2002 in Civil Writ Petition No. 9615 of 2002), no ground for invoking extraordinary writ jurisdiction is made out.

15. The petition is dismissed.