
(2015) 04 SHI CK 0089
In the High Court Of Himachal Pradesh
Case No : CWP No. 458 of 2015

N.K. Puran Singh

APPELLANT

Vs

State of H.P and Others

RESPONDENT

Date of Decision : 17-04-2015

Acts Referred:

Citation : (2015) 04 SHI CK 0089

Hon'ble Judges : Rajiv Sharma, J;Sureshwar Thakur, J

Bench : Division Bench

Advocate : Vinod Chauhan, for the Appellant; P.M. Negi, Deputy Advocate General and Ramesh Thakur, Assistant Advocate General, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sureshwar Thakur, J.

1. The petitioner in his writ petition avers that in the year 1991, he obtained matriculation certificate after his having successfully cleared his matriculation examination conducted by the H.P. Board of School Education. In the year 1994, the petitioner joined the Indian Army. However, in the year 2010, he was discharged from the Indian Army on compassionate grounds and in the same year the petitioner registered his name with the employment exchange Paonta Sahib vide NCO Code No. X0120/X01-10 of 18.11.2010 and bearing registration No. 1103/2011 (201000998) with basic qualification of matriculation. On 4.7.2011 the petitioner cleared Hindi Bhasha Rattan examination from Mumbai Hindi Vidyapeeth. The petitioner on 8.10.2013 passed Sahitya Sudhakar (Sampuran), equivalent to BA from Mumbai Hindi Vidyapeeth. After obtaining degrees aforesaid, the petitioner on 26.11.2013 got his educational qualification registered with the employment exchange concerned and on basis thereof his qualification was registered vide NCO Code No. X010/660-20/57420 with the next date of renewal being November, 2016. In November 2014, the respondents No. 1 and 2 proceeded to advertise posts of Constables and amongst them few

were reserved for ex-servicemen. A call letter was issued to the petitioner on 11.12.2014 intimating him that the State Selection Committee is to conduct interview for the post of Constable on 2.1.2015 at 10.00 a.m. in the Sainik Rest House Hamirpur and the petitioner was asked to bring alongwith him his necessary testimonials. On the petitioner reaching on 2.1.2015 the venue prescribed in the call letter, the Interviewing Board rejected his candidature on the score that he had got himself registered in Ex-servicemen cell in the year 2013 only thereupon he was construed to be hence unfit, his not enjoying seniority for facilitating his participation in the interview. The petitioner contends the rejection of his candidature by the Interviewing board on the score of his being registered with the employment exchange only in the year 2013 is untenable as given the facts recited hereinabove, he had got himself registered with the employment exchange concerned in the year 2010 as such his seniority for facilitating his participation in the interview is to be reckoned there-from.

2. It is an un-controverted fact that amongst vacancies of constables advertised for being filled up, some of the vacancies were reserved for Ex-servicemen. The petitioner belongs to the Ex-servicemen category, hence had a tenable right for being considered for selection and consequent appointment for the post of Constable from amongst the category of ex-servicemen, for which category certain vacancies stood reserved. The respondents also do not controvert the factum of the petitioner being a matriculate in the year 2010. Besides there is a portrayal in the reply of the respondents, of the participation of the petitioner in the interview to be held or conducted for his selection as Constable in the police department from the Ex-servicemen quota, having been elicited on the strength of NCO Code X01.10 as registered on 18.11.2010. The grounds as meted out in the reply of the respondents are that he was debarred from participating in the interview in which his participation was elicited on the score of there being no record/endorsement of his continuing to maintain the seniority of his registration by renewal thereof since his initial registration on 18.11.2010 and his having not produced his X-10 card registered on 18.11.2010. It is contended in the reply of the respondents that omission of production of aforesaid on the part of the petitioner at the time he stood for interview before the Interviewing Board besides necessitated rejection of his candidature as his registration with the employment exchange concerned in the year 2010 stood un-renewed resulting in his loosing his seniority, as such his seniority has been contended to be reckonable only from 26.11.2013. As a corollary it is further contended that the aforesaid reckonable date for computing his seniority rendered him ineligible for participation in the interview. The grounds as meted out by the respondents in the reply are flimsy, shaky and nebulous. The participation of the petitioner in the interview to be held by the interviewing board concerned at the designated venue was elicited on the strength of his X01.10 registered with the employment exchange concerned on 18.11.2010. The sponsorship of the candidature of the petitioner by the employment exchange concerned would not have occurred unless preceded by a thorough scrutiny of the claim of the petitioner for

participation in the tests/proceedings before the interviewing board, whereupon his having been found eligible in all respects inclusive of his seniority for participation to be computed from the year 2010, his name was sponsored. The apt and germane rules, enjoining upon the petitioner the necessity of his after his initial registration in the year 2010 with the employment exchange concerned getting it renewed for maintaining his seniority, absence whereof forbidding and interdicting the petitioner from participating in the interview for the post concerned to be filled up amongst others by Ex-servicemen, have not been placed on record. For lack of adduction of apt and relevant rules by the respondents with a disclosure therein that the petitioner even when he got himself registered with the employment exchange concerned in the year 2010 there was an enjoined legal obligation cast upon him to get his registration renewed for fastening seniority qua registration, fills hence an inference that omission, if any, on his part to obtain renewal of his registration did not strip him of his seniority to be reckonable hence from 2010. Consequently, the ground as meted out by the respondents of his having not produced the record/endorsement of his maintaining his seniority after his initial registration with the employment exchange concerned, rendering his candidature to be dis-cardable as well as prohibiting him to participate in the interview, is wholly un-tenable as well as flimsy rather his seniority is to be computed from the year 2010 when he initially got himself registered with the employment exchange even without his having produced any record before the interviewing board qua the factum of his having maintained his seniority with the employment exchange concerned. Besides, the lack of omission of production by the petitioner of his X-10 card registered with the employment exchange concerned before the said selection committee though is contended to be a ground for rejection of his candidature, it also is an entirely pretextual ground in as much as given the fact of his sponsorship by the employment exchange concerned which would not have occurred unless his name stood registered with the employment exchange concerned, besides its hence fastening a legitimate claim for his consideration for selection by the interviewing board, dispels the effect, if any, of the omission on his part to produce his X-10 card registered on 18.11.2010. In view of above, the present petition is allowed. The respondents are hence directed to consider the candidature of the petitioner by subjecting him to an interview by a duly constituted interviewing board and in case he stands selected, then he shall be, in accordance with rules, appointed against a vacancy occurring in future. All pending applications stand disposed of.