

(2015) 04 P&H CK 0402

In the Punjab And Haryana At Chandigarh

Case No : C.M. No. 4298 of 2015 and CWP No. 4400 of 2015

Victor Robinson

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 01-04-2015

Acts Referred:

Constitution of India, 1950 — Article 316, 316(1)

Citation : (2015) 179 PLR 484

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Victor Robinson, for the Appellant

Final Decision : Dismissed

Judgement

Augustine George Masih, J.

C.M. No. 4298 of 2015

1. Prayer in this application is for permission to place on record copy of office memorandum from Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training, New Delhi on 08.01.2007 as Annexure P-12.

Prayer granted. Annexure P-12 is taken on record.

Application stands disposed of.

CWP No. 4400 of 2015

Petitioner has approached this Court impugning the order dated 16.01.2015 (Annexure P-4), vide which, as per the directions issued by this Court, the representation dated 28.05.2014 submitted by him to the respondents stands rejected, wherein he had claimed that his application for appointment as a Member of the Haryana Public Service Commission be accepted in implementation with the Prime Minister's 15-Point Programme for Minorities

Welfare Scheme dated 08.01.2007 (Annexure P-12), which required the various Governments of the different States to give special consideration to the minorities in the recruitment and for keeping a representative during the selection process for filling up the vacant seats.

In the light of the directions issued by this Court, the claim of the petitioner was re-considered and the impugned order reveals that the Chief Minister, Haryana, who is the competent authority to consider the representation and the application of the petitioner for appointment, did consider the same along with others but his name was not recommended for appointment as Member of the Haryana Public Service Commission to the Governor of Haryana.

2. It is the contention of the petitioner that the rejection of his claim vide the impugned order being based upon Article 316(1) of the Constitution of India is unsustainable as the respondents have placed reliance upon the proviso of the said Article, which deals with one-half members to be officials of the Commission whereas the petitioner had applied under the non-official category. The representation has been rejected along with the claim of the petitioner for appointment on the ground that he had not held the office of the Government for at least 10 years.

3. This contention of the petitioner cannot be accepted as in the impugned order, it is mere reproduction of Article 316(1) of the Constitution. The reason for non-acceptance of the claim of the petitioner, as per his application initially submitted, was that the recommendation was not made by the competent authority i.e. The Chief Minister of Haryana. This fact is apparent from the order, which has been passed, the relevant portion whereof reads as follows:-

"Whereas it is further revealed that the then Hon"ble Chief Minister, being competent authority in the matter, examined and considered the representation dated 28.05.2014 of the petitioner including several other names for their appointment as member Haryana Public Service Commission.

Whereas after due consideration, competent authority did not recommend the name of the petitioner to H E the Governor of Haryana for appointment as Member of Haryana Public Service Commission as the Government has the prerogative to recommend the name of suitable persons for the appointment as Chairman/Members of Haryana Public Service Commission at its own level by following due procedure as prescribed under Article 316 of the Constitution of India which is reproduced below:-

"316(1) The Chairman and other Members of a Public Service Commission shall be appointed, in case the Union Commission or a Joint Commission, by the President and in case of State Commission, by the Governor of the State:

Provided that as nearly as may be one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government

of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this constitution during which a person has held office under the crown in India or under the Government of an Indian State shall be included."

After due consideration in the matter, Competent Authority did not find merit in the claim put forth by Mr. Victor Robinson by way of representation dated 28.05.2014 and the same was rejected."

4. As a consequence of non-recommendation of the name of the petitioner, the representation dated 28.05.2014, which was ordered by this Court vide order dated 08.05.2014 in CWP No. 8811 of 2014 preferred by him, was rejected. The petitioner has approached this Court under a misconception that his candidature itself has been rejected whereas as is apparent from above, the application of the petitioner was duly considered but his name was not recommended as he was not found suitable for appointment to the post of Member of the Haryana Public Service Commission.

5. The assertion of the petitioner that as per the Memorandum dated 08.01.2007 (Annexure P-12) issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, which deals with the Prime Minister's New 15-Point Programme for the welfare of Minorities measures to give special consideration to the minorities in recruitment deals with the Selection Committees/Boards constituted for making recruitment to Group "C" and Group "D" posts. It does not say anything with regard to its applicability to the constitutional authorities as the State Public Service Commission and obviously so because there is no reservation for the minorities provided under the Constitution and, therefore, through the said instructions, the same could not have been done. The contention, thus, of the petitioner that his candidature should have been considered as per the office Memorandum dated 08.01.2007 (Annexure P-12) is misconceived and without any basis and against the constitutional scheme. In view of the above, finding no merit in the present writ petition, the same stands dismissed.