

(2010) 10 P&H CK 0360

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 10803 of 2009

Madan Lal

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Oct. 29, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Judgement

Ajai Lamba, J.

This writ petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature of mandamus, directing the Respondents to consider the appointment of the Petitioner as regular from the date he qualified the test conducted by Subordinate Services Selection Board, Punjab.

2. It has been pleaded that the Petitioner joined Punjab School Education Department as Laboratory Attendant on 5.11.1969. Vide Order dated 16.2.1972, the Petitioner was promoted to the post of Clerk on adhoc basis.

3. In the year 1976, the Subordinate Services Selection Board, Punjab conducted a test of employees working against Class IV posts, for promotion to Class III posts as Clerks. The Petitioner, who belongs to scheduled caste category, passed the test and his name was recommended to Respondent No. 2 i.e. Director Public Instructions (SE), Punjab, vide letter Annexure P-2, purportedly, issued on 8.6.1977.

4. Vide letter dated 13.7.1978 (Annexure P-3), however, the name of the Petitioner alongwith other selected candidates was forwarded to the Respondents in order of merit for appointment as Clerk. Perusal of letter Annexure P-3 indicates that the Petitioner was asked to join Agriculture Department as Clerk.

5. It is not in dispute that the Petitioner did not join in response to Annexure P-3. Till date the Petitioner continues to serve the Education Department. Factually, the Petitioner did not accept letter Annexure P-3 and did not join as Clerk in Agriculture Department after his selection by the Subordinate Services Selection Board, Punjab. Learned Counsel for the Petitioner asserts the right of the Petitioner to join Education Department in terms of letter dated 8.6.1977 (Annexure P-2).
6. As per the stand of the Respondents, name of the Petitioner, after his selection by Subordinate Services Selection Board, Punjab was recommended for regular appointment vide letter dated 13.7.1978 (Annexure P-3) only.
7. Learned Counsel for the Respondents has taken a specific stand that Annexure P-2 is forged. The letter does not contain any memo number. The letter is not addressed to any department rather, it has been addressed to the Petitioner. Learned Counsel contends that it appears to be a manipulation at some level and there is no trace of document, Annexure P-2, in the files of Education Department as no such letter was addressed by the Subordinate Services Selection Board, Punjab to the Education Department.
8. Considering the facts and circumstances of the case, I find that there are disputed questions of facts which cannot be resolved, without taking evidence, in extraordinary writ jurisdiction.
9. The petition is disposed of with liberty to the Petitioner to take alternate remedy as might be permissible in law.