

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1093 OF 2001

K.L. KHURANA

Appellant (s)

VERSUS

STATE OF HARYANA AND ORS.

Respondent(s)

O R D E R

1. This appeal is directed against the order dated 31.8.1999 passed by the Division Bench of the High Court of Punjab & Haryana at Chandigarh whereby the Division Bench of the High Court allowed the writ petition filed by the petitioner - (respondent herein - Mohinder Singh) challenging the order passed by the Municipal Commissioner, Faridabad dated 24.5.1996 whereby the appellant along with four other persons were asked to look after the work of Junior Engineer in their own pay scales.

2. Brief facts which are necessary for disposal of this appeal are that the appellant along with other persons were appointed as

Junior Engineer to look after the work in their own pay scales by order dated 24.5.1996. This was challenged by the petitioner-respondent No. 10 herein on the ground that all these persons were Matriculates and they did not possess the requisite qualifications i.e. Diploma in Civil Engineering from a recognized institute as stipulated under the provisions of Haryana Municipal Corporation Employees (Recruitment and Condition of Service) Rules, 1998 (hereinafter referred to as "the Rules"). Therefore, they should not be allowed to continue in those posts. It was further contended by the petitioner-respondent No. 10 herein that prior to promulgation of the Rules, the Municipal Corporation was following the rules applicable to the Public Works Department (Public Health Branch) whereunder it was required that a candidate should have obtained three years National Certificate from the Haryana State Technical Education Board or an equivalent qualification. But the appellant and others did not possess that qualification. Therefore, their continuance on the post of Junior Engineer was absolutely illegal and that order should be set aside.

3. The Municipal Corporation along with the respondents in the writ petition contested the writ petition. It was contended that the Rules of the Corporation were finalised in 1998 and prior to that the Municipal employees were governed by the Haryana Municipal Service (Integration, Recruitment and Condition of Service) Rules, 1982. It was further contended that all these persons were senior to the petitioner - respondent No. 10 herein. Learned Division Bench after consideration of the matter came to the conclusion that the continuance of the appellant and others on the post of Junior Engineer was illegal as they were ineligible and cannot be allowed to enjoy the rank and status of a higher post without fulfilling the requisite qualification, though it was contended by the Municipal Corporation that they were not actually promoted. Be that as it may, still they were allowed to continue against the post of Junior Engineer. Learned Division Bench after considering the Rules of 1998 came to the conclusion that although the incumbents did not possess the requisite qualification, even then they were

asked to look after the work of Junior Engineer in their own pay scales. It was observed by the Division Bench that since the conditions of service had been laid down, therefore, the Corporation should consider the claim of eligible persons in accordance with the statutory regulations of 1998 and, accordingly, the appointments of respondent Nos. 4 to 8 in the writ petition were found to be bad in law but they were allowed to continue till October 15, 1999 and it was directed that the recruitment should be made as per the Rules.

Thereafter, on 11.10.1999 the Municipal Commissioner passed an order disallowing the Junior Engineers to work as such with effect from 15.10.1999 and asked them to work as Road Inspectors.

Hence the present appeal was filed by the private respondent.

4. We have heard learned counsel for the parties and perused the records.

5. From a perusal of the order dated 24.5.1996 it appears that the appellant who was working against a temporary vacancy was allowed to continue in the said post and that temporary appointment

has been discontinued. Therefore, the appellant has no right to continue on the post in question. The view taken by the High Court appears to be justified and there is no ground to interfere in the matter. Consequently, the appeal is dismissed with no order as to costs. However, in case there were existing vacancies prior to coming into force of the Rules of 1998 and the incumbents are eligible as per the Rules obtaining then, their cases be considered in accordance with the Rules.

.....J.

[A.K. MATHUR]

.....J.

[DALVEER BHANDARI]

NEW DELHI

MAY 1, 2007

ITEM NO.108

COURT NO.6

SECTION IV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 1093 OF 2001

K.L. KHURANA

Appellant (s)

VERSUS

STATE OF HARYANA AND ORS.

Respondent(s)

(With office report)

Date: 01/05/2007 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s) Mr. Subhash Sharma,Adv.

For Respondent(s) Mr.T.V.George,Adv.

Mr. Naresh Kaushik, Adv.

Mr. G.S. Pandey, Adv.

Mrs Lalita Kaushik ,Adv

Mrs.B.Sunita Rao ,Adv

UPON hearing counsel the Court made the following

O R D E R

Appeal is dismissed with no order as to costs in terms of signed

order.

(Pardeep Kumar)

(Radha R. Bhatia)

Court Master

Court Master

[SIGNED ORDER IS PLACED ON THE FILE]