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Court : Punjab and Haryana

Decided On : Sep-26-2013

Appellant : “5. the Basic Question Which Requires to Be

Respondent : State of Punjab and Others --respondents

Judgement :

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH CWP No.21417 of 2013 (O&M) Date of Decision: 26.9.2013.

Harvinder Singh --Petitioner Versus State of Punjab and others --Respondents CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr.G.P.Vashisht, Advocate for the petitioner.

*** TEJINDER SINGH DHINDSA.J The petitioner has instituted the instant writ petition praying for the issuance of a Writ of Mandamus for directing the respondents to issue appointment letter to him as regards the post of Carpentry Instructor.

As per pleadings on record the petitioner had applied for the post in question and had appeared before the Subordinate Services Selection Board for an interview in the year 1998.

It is the assertion made by learned counsel for the petitioner that certain persons lower in merit were selected by the Subordinate Services Selection Board and as such, the petitioner had been discriminated against.

It has further been urged that the petitioner had filed a complaint before the Lokpal, Punjab raising an allegation that candidates with lesser experience have been selected and appointed in pursuance to the recommendations of the Subordinate Services Selection Board.

The petitioner, thereafter, has been submitting representations and has also invoked the provisions of the R.T.I Act, whereby he has been informed that certain recommendations have been made by the Lokpal to the State Govt.

in his favour.

It is on the strength of such recommendations made by the Lokpal that the present writ petition has been instituted.

Lucky 2013.09.27 10:26 I attest to the accuracy and integrity of this document chandigarh CWP No.21417 of 2013 (O&M) -2- Having heard learned counsel for the petitioner at length, I am of the considered view that the present writ petition deserves dismissal on two counts.

In the fiRs.instance, the selection to the post in question i.e.Carpentry Instructor relates back to the year 1998.

Without even examining the issue as to whether any candidates lower in merit, if at all, were selected and appointed to the prejudice of the rights of the present petitioner, there is an inordinate delay of almost 15 years in having approached this Court by filing the instant writ petition.

Secondly, learned counsel has not been able to show as to whether the complaint that had been filed by the petitioner, was against a Public Man.

as defined under Section 2 (k) of the Punjab Lokpal Act, 1996.

In the absence of the relevant pleadings in regard thereto, the recommendations made by the Lokpal on a complaint that has not been directed against a Public Man.

would be without jurisdiction.

In this regard the observations made by a Division Bench of this Court in case of Sukhdeep Kaur versus State of Punjab & otheRs.2008 (4) S.C.T594would be relevant and read in the following terms:- 5.

The basic question which requires to be adjudicated upon is whether the Lokpal under the Act could entertain a complaint on behalf of the petitioner in respect of the Entrance Test and admission to Elementary Teacher Training CouRs.on the basis of allegations against a public servant.

Under Section 9 of the Act, the Lokpal may enquire into any matter involved in, or arising from, or connected with any allegation of misconduct against public man made in a complaint under the Act.

Under Section 10 of the Act, such inquiry can be made against a public man, within 5 years from the date of the occurrence of the misconduct.

The public man CWP No.21417 of 2013 (O&M) -3- has been defined under Section 2(k) of the Act.

The said definition reads as under:- 2(k) Public man.

means a person who holds or has held the office of- (i) A Minister; (ii) a member of Legislative Assembly of the State; (iii) the Chairman and a Member of Board constituted by or under the State or Central Act or otherwise; (iv) The Chairman of any Government Company within the meaning of section 617 of the Companies Act, 1956, in which not less than fifty one per cent of the paid up share capital is held by the State Government or any company which is subsidiary of a company in which not less than fifty-one per cent of the paid up share capital is held by the State Government; and (v) the Chairman and Member of any non statutory Committee nominated by the State Government.

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6.

Shri Baldev Raj, member of the Committee is a public servant as he was working as Deputy Director (Establishment).Office of Director Public Instructions (Elementary Education) Punjab, and not as a public man as defined in Section 2(k) of the Act.

Therefore, the Lokpal could not take cognizance of the complaint submitted by the petitioner.

There is no allegation of any misconduct, as defined under Section 3 of the Act against any public man.

Therefore, the present writ petition, seeking implementation of the recommendations of the Lokpal, is not maintainable as such recommendations are without any jurisdiction.

Hence, the present writ petition is dismissed.

Petition dismissed.

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For the reasons recorded above, there is no merit in the present writ petition and the same is, accordingly, dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA) JUDGE September 26, 2013.

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