

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 7113 of 2013 (O&M)
Date of decision : November 29, 2013

Sundeep Singh,
..... Petitioner

v.
The Oriental Insurance Company Limited and another,
..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ritesh Pandey, Advocate
for the petitioner.

Mr. Ashwani Talwar, Advocate
for the respondents.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

AJAY TEWARI, J (Oral)

Prayer in this writ petition is for quashing of the order dated 8.3.2013 (Annexure P-6) whereby the offer of appointment of the petitioner stood lapsed.

The petitioner was selected as Administrative Officer (Scale I) by the respondent-Company vide letter dated 26.12.2012 and he was advised to report before respondent No.2 immediately. It was also mentioned in clause 14 of the appointment letter that in case the petitioner was serving elsewhere, he should submit the discharge certificate/relieving letter from his employer before joining the respondent-Company. As per

the petitioner, he informed the respondent-company on 14.1.2013 that he was serving with M/S Gopal Highways, Bathinda and would join immediately after he was relieved. It is further averred that when the petitioner got relieved on 20.2.2013, it was discovered that his father suffered from renal failure. He made a representation dated 26.2.2013 informing the respondents that he had been relieved and that his father had been diagnosed with the above mentioned disease, and prayed for six months' time to join his duties. However, on 8.3.2013, the impugned order was passed informing the petitioner that since he had not joined the respondent-company, his appointment order had been withdrawn.

The precise grievance raised in this writ petition is that if the respondents had informed the petitioner that his request for extension could not be considered and even thereafter the petitioner had not joined, the impugned order could have been justified but the precipitate action taken by the respondents is illegal. Counsel for the petitioner has stated that the petitioner will not seek any seniority, payment of salary, or any consequential benefits and would be satisfied even if he is placed at the tail in the select list.

Counsel for the respondents has argued that the petitioner had no right to seek an extension beyond that which was prescribed viz till he obtained relieving certificate from his previous employer, and consequently the action of the respondents does not reveal an actionable claim.

No doubt, the petitioner has no vested right to claim extension. However, it is not a case where the petitioner is merely a selected candidate but is a case where he is an appointed candidate. The question is whether

he had a reasonable expectation of at-least a reply to his representation considering that he was not only a selected candidate but also an appointed candidate. To my mind, the answer to this question has to be in the affirmative. If the respondents felt that no more joining time could be granted to the petitioner, they had an obligation to inform him of this fact and if the petitioner had not joined even thereafter, they would have been absolutely justified in withdrawing the appointment order. Another factor which would weigh in favour of the petitioner would be that admittedly uptill now no other appointment has been made in his place and, thus, it is not a case where the rights of a third person would be jeopardized. In the circumstances, the action of the respondents in unilaterally withdrawing the appointment letter without giving the petitioner a chance to join is arbitrary and illegal. Consequently, this writ petition is allowed and the impugned order is set aside. The petitioner is directed to now join the respondent-Company within one week from the date of receipt of a certified copy of this order. It is made clear that he will not be entitled to any seniority, payment of salary or any consequential benefits.

(AJAY TEWARI)

November 29, 2013.

JUDGE

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