

Himachal Pradesh State Electricity ... vs Dharminder Singh on 23 November, 2022

Bench: B.R. Gavai, Vikram Nath

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8828 OF 2022
[Arising out of SLP(C) No. 6647 of 2021]

HIMACHAL PRADESH STATE
ELECTRICITY BOARD LTD. & ANR.

Appellant(s)

VERSUS

DHARMINDER SINGH

Respondent(s)

O R D E R

Leave granted.

2. The appeal challenges the judgment and order dated 01.01.2021 passed by the learned Division Bench of the High Court of Himachal Pradesh at Shimla in CWP No. 5311 of 2020, vide which the writ petition filed by the respondent No.1 has been allowed.

3. The appellant - Himachal Pradesh State Electricity Board Ltd. had published advertisement on 17.07.2018 inviting application for the post of Junior T/Mate/Junior Helper (Sub-Station)/Junior Date: 2022.11.30 18:28:25 IST Reason:

Helper (Power House) (E). Pursuant to the said advertisement, the respondent No. 1 applied.

4. As per the advertisement, the essential qualification is metric pass and the desirable qualification is ITI diploma in wireman/Electrical trade obtained through Regular Course (not through distance education) from the institutions recognized by the Government of Himachal Pradesh or the National Trade Certificate of one year Broad Based Basic Training. The marks to be assigned for essential qualification are 60 per cent whereas for that the desirable marks are 25 per cent.

5. Indisputably, on the date of which, the respondent No.1 had applied, he was not possessing the Technical Qualification of ITI Certificate or the equivalent qualification. He has acquired the said

qualification on 19.12.2018, whereas the last date of submission of application was 18.08.2018.

6. It appears that since on the date of interview, i.e. 25.02.2019, the respondent No.1 had already acquired the qualification, he was awarded 25 marks for the said qualification. Subsequently, on a complaint, it was realized that on the last date of application, he did not possess the said qualification. The selection then came to be cancelled.

7. Being aggrieved thereby, the respondent No.1 filed writ petition. The High Court in the impugned judgment held that since on the date of interview, the respondent No.1 was possessing requisite qualification, his termination was bad in law and as such allowed the petition.

8. The issue is no more res integra.

9. This Court in the Ashok Kumar Sonkar Vs. Union of India reported in (2007) 4 SCC 54 and in the case of Rakesh Kumar Sharma Vs. State (NCT of Delhi) and Ors. reported in (2013) 11 SCC 58 has held that the cut-off date for acquiring the qualification advertised is the last date of application.

10. It is sought to be urged on behalf of the respondent No.1 that since he has appeared in the examination in July, 2018, though the result has been declared on 19.12.2018, he should be deemed to have acquired the qualification in July, 2018, i.e. prior to the date of advertisement.

11. The said contention is also without merit. The said issue is also considered in the case of Ashok Kumar Sonkar (Supra) and rejected.

12. In that view of the matter, the impugned judgment and order is not sustainable. The impugned judgment and order of the High Court dated 01.01.2021 is quashed and set aside. The writ petition filed by the respondent No.1 stands dismissed.

13. The appeal is allowed in the above terms.

14. Pending application(s), if any, stand(s) disposed of.

.....J (B.R. GAVAI)J (VIKRAM NATH) New Delhi NOVEMBER 23, 2022 ITEM NO.13 COURT NO.9 SECTION XIV S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (C) No(s). 6647/2021 (Arising out of impugned final judgment and order dated 01-01-2021 in CWP No. 5311/2020 passed by the High Court Of Himachal Pradesh At Shimla) HIMACHAL PRADESH STATE ELECTRICITY BOARD LTD & ANR. Petitioner(s) VERSUS DHARMINDER SINGH Respondent(s) Date : 23-11-2022 This petition was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI HON'BLE MR. JUSTICE VIKRAM NATH For
Petitioner(s) Mr. Abhinav Mukerji, AOR Mrs. Bihu Sharma, Adv.

Ms. Pratishtha Vij, Adv.

Mr. Akshay C. Shrivastava, Adv. For Respondent(s) Mr. Arup Banerjee, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed in terms of the signed order. Pending application(s), if any, stand(s) disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)

[Signed order is placed on the file]