
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.16955 of 2012

Date of decision: 15.12.2015

Dr. Sham Singh Thakur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: None for the petitioner.

Mr. Pankaj Mulwani, Deputy Advocate General, Punjab
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks employment on the post of Ayurvedic Medical Officer as per qualification provided under the Rehabilitation and Re-settlement Scheme dated 18.11.1993 (Annexure P/4).

It is the case of the petitioner that land of father of the petitioner was situated in village Hardosaran, Tehsil Dhar Kalan, District Pathankot and on account of acquisition of the land the petitioner is entitled for the benefit as per the scheme. The petitioner being fully eligible as per his qualification thus seeks the benefits and challenges the order dated 22.9.2011 (Annexure P/10) whereby the respondents directed the petitioner who was applicant along with one Jasbir Singh to give application for one member of joint family.

A perusal of the paper-book would go on to show that on an earlier occasion the petitioner along with others had approached this Court by way of filing Civil Writ Petition No.9609 of 2011 seeking direction for providing them employment. In view of decision in **Civil Writ Petition No.787 of 2008-Dharam Singh and others Vs. State of Punjab and**

others decided on 26.11.2009 which was upheld by the Division Bench and the Apex Court, a direction was issued on 27.5.2011 (Annexure P/5) to consider the claim of the petitioners. As noticed the petitioner was asked to apply for one person of the family vide order dated 22.9.2011.

In the reply filed by the State, it has been mentioned that the petitioner on 19.9.2011 (Annexure R/1) had already given his consent that he was not satisfied with the appointment as class IV employee but wanted to be adjusted on account of his qualification. He thus gave consent for appointment of Jasbir Singh son of Karnail Singh who admittedly is related to the petitioner as it has been mentioned that he is his brother and also he is a member of Mushtarka Khata. The appointment of a class IV employee was accordingly granted to the said Jasbir Singh on 10.4.2012 (Annexure R/2).

Resultantly, the present writ petition has been filed whereby claim of appointment for higher post is sought. The scheme of Rehabilitation and Re-settlement provides that where the land of whose family is acquired the concession of public employment is to be granted. Once the petitioner has himself consented to the appointment of a member of the family, it is not for him to now turn around and submit that he is also liable for consideration on the basis of his higher qualification. The purpose of the scheme is only to reduce the difficulty of the family whose land has been acquired and there is no such absolute right of appointment by cutting out other aspirants and this is only an exception carved out. The member of the family of the petitioner having benefited of the appointment the petitioner cannot turn around and submit that he is entitled for appointment as a matter of right on the basis of qualification. The scheme also provides that it has to subject to available vacancies.

The State has specifically replied that the post of Ayurvedic Medical Officer is 'A' grade post and for appointment to the post of Ayurvedic Medical Officer competitive test and interview is necessary. Therefore, the petitioner is not entitled to claim appointment as Ayurvedic Medical Officer and no writ of mandamus can be issued for such a direction in the absence of any legal vested right.

Accordingly, finding no merit in the present writ petition, the same is dismissed.

December 15, 2015
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(G.S.SANDHAWALIA)
Judge