

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 12120 of 2015
Date of decision: 18.08.2015

Hemant KumarPetitioner(s)

Versus

State of Punjab and another ...Respondent(s)

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

Present: Mr. R.K. Bhatia, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 24.04.2014 (Annexure P-9) whereby, the petitioner's claim for issuance of posting orders on the post of Senior Laboratory Attendant has been rejected by respondent no. 2. The reasoning given by the said respondent is that the appointment letter was issued on 30.05.2011 and the petitioner was posted in the Government Senior Secondary School (Boys), Boha, Mansa subject to certain conditions. The petitioner failed to join as per the terms of the appointment letter and only on account of a public notice dated 09.01.2013, he applied afresh. It was noticed that the said notice was for purposes to offer appointment to selected candidates who could not resume duty for certain reasons like non-receipt of appointment letter due to postal delay or other reasons. As per the terms and conditions of the appointment letter, the offer itself stood cancelled as he did not join duty within the stipulated period and the appointment letter had ceased to exist and, therefore, he had no legal right to claim appointment on the basis of the selection made in the

year 2011.

The reasoning which has been given by respondent no. 2 calls for no interference. Admittedly, the advertisement was issued on 23.09.2009 for 7654 posts, out of which 450 posts were for the post of Senior Laboratory Attendant. The petitioner had been issued the appointment letter wherein, certain conditions had been mentioned and if the candidate did not report within 7 days from the receipt of letter of appointment to the District Education Officer (SE), the appointment order was liable to be cancelled. The said condition reads thus:-

“In case, he/she is willing to accept this appointment on the terms and conditions mentioned above, he/she should report to the District Education Officer (SE) of the District in which he/she is initially posted immediately, but not later than seven days from the receipt of this letter of appointment. If he/she fails to join the duty within the stipulated period, his/her appointment order will liable to be cancelled.”

Admittedly, the petitioner failed to join on the said posting and only got a fresh lease of life due to public notice which was issued. In the representation dated 14.01.2013, there is not even a whisper on what account the petitioner could not join the duty in time and it has only been mentioned that due to some unavoidable circumstances, he could not join. The contract of appointment was a conditional appointment. The petitioner having failed to adhere to the terms of the contract, now cannot claim any legal right or vested right. It is to be noticed that a period of more than 4 years have passed since appointment letter was issued. Respondent no. 2 has rightly come to the conclusion that the benefit of the public notice was not available to persons who had failed to join on their own account. It is

only for persons who did not get the letters of appointment etc. A similar issue came up for consideration before the Division Bench of this Court in ***LPA No. 1781 of 2014, Loveleen Kaur vs. State of Punjab and others*** decided on 03.11.2014 pertaining to the same set of selection. It was held that the selection process cannot be kept pending till eternity so as to confer a right on the applicants. The relevant observations read thus:-

“We find that the appellant cannot claim any direction for further counseling having failed to appear for the counseling on 7.7.2011. In response to a public notice, many candidates, including some of juniors to the appellant, have appeared for counseling. Once the appellant has failed to appear on a specific date, no grievance can be entertained so as to direct the respondent to hold another counseling. Learned Single Judge has rightly declined to interfere in the order passed by the respondents declining the representation of the petitioner.

Another argument raised by learned counsel for the appellant is that if in future it is decided to hold counseling again, the appellant should be called for counseling.

We do not find that any such direction can be given. The publication to conduct counseling was done through a public notice. The second counseling was conducted in the year 2011 i.e. more than 3 years earlier. The selection process once concluded, cannot be kept pending till eternity so as to confer right on the applicants for appointment. However, as and when any fresh advertisement seeking appointment is issued, it shall be open to the appellant to apply in accordance with law.

We do not find any merit in the appeal and the

same is hereby dismissed.”

Keeping in view the said principle, this Court is of the opinion that there is no scope for interference in the order which is impugned after a period of more than one year.

Accordingly, the present writ petition is dismissed.

18.08.2015
shivani

(G.S. SANDHAWALIA)
JUDGE