

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

**CWP No.13811 of 2015
Date of decision: 06.08.2015**

Rajesh Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Deepak Sonak, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana.

AMIT RAWAL J. (Oral)

The present writ petition has been filed for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 for giving appointment to the petitioner to the post of Store Keeper in view of appointment letter dated 30.12.2011, Annexure P-4 with all consequential benefits.

It is a second round of litigation at the behest of the petitioner, inasmuch, as that petitioner had earlier approached this Court, vide CWP No.23075 of 2012 and same was allowed on 30.03.2015, whereby, he has sought the relieving from the office of the Director General of Prisons, Haryana, Panchkula, on account of

having been selected as Store Keeper in Government Medical College, Mewat (Health Department) through proper channel and this Court after having taken into consideration the rival contention and pleadings of the parties to the lis and disposed of the writ petition.

The relevant part of the order reads thus:-

“I have heard learned counsel for the parties and am of the view that language of Note 3 of Rule 3.17 of the Punjab Civil Services Rules Volume II, is clear and unambiguous and does not require any interpretation. The stand taken by the respondents in the impugned order dated 11.05.2012 (Annexure P-1) is not sustainable in the eyes of law. Since the petitioner had sought the permission for being relieved, it should be treated as permission to leave the department and to join the new department. The department while rejecting the application had not read the provision, ibid, used in its correct perspective. The impugned order, is hereby, set aside. Since the petitioner has already filed an application to join at new place of posting and in case, the petitioner choose to file fresh application, he may do so and on filing of such application, it is directed that respondents shall grant permission to the petitioner, strictly in accordance with the provisions of Note 3 Rule 3.17 of the Punjab Civil Services Rules Volume II, so as to enable

the petitioner to join the new place of posting, whereby, he has been selected.

Accordingly, the civil writ petition is disposed of.

It is expected that if the petitioner files an application, the authorities shall grant permission to him within a period of two months from the receipt of a certified copy of this order. While granting permission, respondents shall consider the provisions of the aforementioned Rules, much less, also consider the factum the period which the petitioner has served as Warder on a temporary post.”

In view of the direction extracted (supra), the petitioner had submitted an application to respondents No. 4 and 5 for relieving him. Despite issuance of appointment letter, he was not sure whether, the respondents will take him back into service against the post on which he was selected, therefore, compelled to file present writ petition.

This Court on 14.07.2015, issued notice of motion to the State,, as to whether any vacancy against which the petitioner has been selected and the aforesaid order reads thus:-

“The petitioner, a Warder in the Prison Department, Haryana, applied in response of advertisement dated 29.07.2011 (Annexure P-1), for the post of Store Keeper, through proper channel. The petitioner was ultimately selected by the concerned authorities, however, he was

not relieved by the parent department and the he was constrained to approach this Court by filing CWP No.23075 of 2012, which was allowed on 30.03.2015.

At this stage, the limited prayer of the petitioner is that he is unable to find out as to whether the vacancy against which he was selected is still lying vacant and whether he could still join respondent No.3.

The learned State counsel is directed to inquire into the matter and make a statement in this regard on the next date of hearing.

List again on 06.08.2015.

A copy of this order be given to the learned State counsel, under the signatures of the Special Secretary of this Bench.”

Mr. Hitesh Pandit, learned Additional Advocate General, Haryana has filed an affidavit of Dr. Sansar Chand Sharma, Director SHKM GMC, Nalhar, Mewat on behalf of respondents No.1 to 3 in the Court. The same is taken on record. In paragraph No.3 of the affidavit, it has been submitted that the post on which the petitioner was appointed is still lying vacant but the offer of appointment was limited to 10 days, as per the condition mentioned in the appointment letter. The petitioner has to apply a fresh as and when the vacancies are circulated.

In view of the fact that the post is still lying vacant and the

petitioner has already been issued appointment letter as way back as on 30.12.2011. I deem it appropriate to dispose of the writ petition with a direction that petitioner, in compliance of the directions contained in the order dated 30.03.2015, shall submit an application to respondent No.5 for reliving him and on being relieved, respondent No.3 shall permit the petitioner to join on the post of Store Keeper which is stated to be lying vacant. Since the appointment letter has been issued in the year 2011, the petitioner would be entitled to notional benefits.

With the aforementioned directions, writ petition stands disposed of.

Respondent No.5 is directed to relieve the petitioner immediately, on receipt of the application for reliving and to issue order thereon.

(AMIT RAWAL)
JUDGE

August 06, 2015
savita