IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No. 24307 of 2011

DATE OF DECISION : July 21, 2015

Som Nath

.... PETITIONER(S)

VERSUS

State of Punjab & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. R.K. Arya, Advocate, for the petitioner.
Mr. Nilesh Bhardwaj, Deputy Advocate General, Punjab.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

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ARUN PALLI, J. (Oral)

A writ in the nature of mandamus is prayed for so as to quash the revised result of Excise and Taxation Inspectors (Annexure P-5), as a result whereof, respondent No.4 has been selected and appointed under the Ex-serviceman Scheduled Castes category. And, consequently, a direction is sought to the respondents to declare the petitioner as a selected candidate on the strength of the marks obtained by him in the examination conducted by respondent No.2, as per merit list (Annexure P-3).

In short, pursuant to an advertisement No.2 of 2011, published in The Tribune on 08.07.2011 (Annexure P-1), 100 posts of Excise and Taxation Inspectors were sought to be filled. Four posts were reserved in the category of Ex-servicemen Scheduled Castes. Petitioner opted for selection in the said category. A preliminary examination was held on 23.10.2011, followed by the main i.e. written examination, on 06.11.2011. Result in respect of the main examination was declared and uploaded on the website of the department i.e. www.paxtax.com. Vide a public notice issued by the Subordinate Services Selection Board, Punjab, candidates were advised to see their result on the website of the department that was uploaded category wise on 18.11.2011 and the schedule of counselling was also set out therein. An analysis of the said public notice (Annexure R-2/1) reveals that it was duly notified that no candidate was being informed individually/separately. As the counselling was slated to be held on 21/22.11.2011, it was recited in the notice that those candidates who are unable to participate in the counselling, for one reason or the other, on the previous dates, could come present on 23.11.2011. And vide yet another public notice issued by the Board, the candidates were afforded yet another chance to participate in the counselling on 28.11.2011 at 9.30 AM in the office of the Board at Sector 68, Mohali. It was made clear that this would be the last chance as no further opportunity shall be afforded in this regard to any candidate.

In the reply filed on behalf of respondent No.2 by way of affidavit of Secretary, Subordinate Services Selection Board, what is set out in paragraph Nos.1 to 3 of the preliminary submissions, reads as thus:-

> "1. That the petitioner has concealed the fact from this Hon'ble Court that he absented himself from the counseling scheduled for 22-11-2011. Another opportunity to candidates to appear for counseling on 23-11-2011 was given but he did not come to attend the counseling held on 23-11-2011 and further also did not respond to the last opportunity of the counseling held on 28-11-2011. By absenting himself from the counsellings, he had rendered himself liable to be ignored for selection to the post of Excise and Taxation Inspector.
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> 2. That this said representation dated 12.12.2011 (Annexure P-6), has not been received in the office of answering deponent and said representation is but an after thought.
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> 3. That after providing opportunities to attend counselling on 22-11-2011 and 23-11-2011 and after wards last opportunity on 28-11-2011 the merit list was prepared. Hence, the petitioner who had not bothered to appear in the counseling can not have any claim for consideration, at this belated stage."

Learned State counsel submits that the petitioner had due opportunity to participate in the counselling for the purpose of scrutiny of his documents, but neither did he appear on 21/22.11.2011 nor even on 23.11.2011. So much so, he chose not to participate in the counselling and avail the last opportunity even on 28.11.2011. Resultantly, he had rendered himself liable to be ignored for selection. As, post counselling, the final merit list was prepared on 16.12.2011 (Annexure P-5), the consequent appointments have already taken place.

The position set out in the written statement filed by respondent No.2 has neither been controverted by learned counsel for the petitioner by filing any replication or a counter-affidavit nor even during the course of hearing. Thus, remains unrebutted.

That being so, the petition being devoid of merit is accordingly dismissed.

JULY 21, 2015 (ARUN PALLI)
Kang JUDGE