

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19650 of 2014 (O&M)

Date of Decision:- 27.04.2015.

Bhagwant Singh and others

.....Petitioners

Versus

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr. A.S. Ahluwalia, Advocate for the petitioners.

Mr. P.C. Goyal, Advocate for respondent Nos.3 to 6.

SURYA KANT, J. (ORAL)

The petitioners have laid challenge to the order dated 08.07.2014, whereby Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter to be referred to as 'the Tribunal') dismissed their Original Application on the premise that it had become infructuous. While doing so, the Tribunal further observed that the issue raised by the petitioners stands decided in the case in OA No.494/JK/2013 (**Deepak Kumar and others Vs. Union of India and others**) decided on 08.07.2014.

2.) Since we propose to remit the case to the Tribunal for fresh adjudication of the petitioners' claim on merits, the facts may be briefly noticed.

3.) The Chief Engineer, Western Command, Chandi Mandir invited applications for various posts including Mate (SS). According to the petitioners, 71 posts were advertised, out of which 51 have been finally filled in after declaration of the result in March, 2013.

4.) The petitioners, most of whom belong to the Reserved categories, did not find their placement in the selection list. Their grievance before the Tribunal was that should there be selection for all the advertised posts, they too are entitled to appointment as per their merit other. Other grounds like appointment of candidates lower in merit in general category were also taken.

5.) It appears that there was another case before the Tribunal pertaining to same selection i.e. OA No.494/JK/2013 **(Deepak Kumar and others Vs. Union of India and others)** which was disposed of as infructuous on 08.07.2014. There the Tribunal considered the issue of eligibility based upon academic qualification as also whether the candidates who have got less marks were entitled to be included in the merit list. The Tribunal disposed of that Original Application observing that *“since the selection has been completed and the result of the selection has also been declared by the respondents, the OA has in effect been infructuous and is disposed of accordingly.”* XXX XXX XXX.

6.) The Original Application filed by the petitioners has also been disposed of in the above reproduced terms.

7.) Having heard learned counsel for the parties and taking into consideration the nature of relief sought by the petitioners, we are of the considered view that their matter requires adjudication on merits. There is no issue of eligibility based upon academic qualification involved in the

case of the petitioners. Similarly, they did not raise any claim for inclusion in merit list over and above a candidate who has secured higher marks. Their claim before the Tribunal was only to the effect that the respondents ought to have notified the result for all the 71 advertised posts and in that event, they would have also made it to the selection list and/or that if a candidate lower in merit has got appointment in general category, then they are also entitled to be appointed.

8.) While we do not express any views on the merits of the above stated claim of the petitioners and the respondents shall indeed be entitled to raise all their objections against maintainability of such claim, the fact remains that the Tribunal has not decided these issues on merits.

9.) Since the impugned order does not deal with the petitioners' contention(s) in specific, we allow this writ petition; set aside the order dated 08.07.2014 passed by the Tribunal and remit the case to it for afresh adjudication in accordance with law. The petitioners as well as respondents shall be at liberty to raise their respective pleas before the Tribunal which shall be dealt with in accordance with law.

10.) Parties are directed to appear before the Tribunal on 01.07.2015.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

April 27, 2015.

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