

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

**C.M. No.1336 of 2015 in/and  
C.W.P. No.20152 of 2014  
Date of Decision : 19.03.2015**

Sh. Ramesh Kumar

..... Petitioner

versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Mr. Shrey Goel, Advocate  
for the applicant-petitioner.

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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?

**AJAY TEWARI, J. (Oral)**

**C.M. NO.1336 OF 2015**

For the reasons recorded, the application is allowed.

Documents (Annexures P-9 and P-10) are taken on record.

**C.W.P. NO.20152 OF 2014**

By this petition the petitioner has challenged the appointment of respondent No.5 to the post of Head Clerk.

The petitioner was appointed as Clerk on 17.08.1981 against unsanctioned post and on 06.02.1986 against a sanctioned post while respondent No.5 was appointed as Clerk in the year 1984 against

unsanctioned post and in the year 1992 against a sanctioned post. Admittedly the petitioner was 3 years senior to him. It is also admitted that for the post of Head Clerk the Management has to first decide whether it has to be filled up by promotion or by direct recruitment. In the present case, the post was advertised where the petitioner was found to be ineligible being Matriculate. Admittedly, the qualification for direct recruitment is Graduation. In these circumstances, the allegations of the petitioner are that firstly the post of Head Clerk should have been filled up by promotion and secondly the Management has not decided by way of a resolution to fill the post by direct recruitment.

In my opinion, both the arguments are related in so much as they depend on : i) parameters under which the management can decide to fill up a post by a particular manner and ii) the method by which such decision is taken. As regards the parameters on which the Managing Committee takes a decision on whether to fill up a post by promotion or by direct recruitment, it is not for the Courts to micro-manage each aspect of the decision making process. Suffice to say that unless there is material to show that a particular decision is taken by the employer (to fill up a post one way or an other) on completely extraneous and malafide grounds which are apparent from the record a Writ Court would not venture to give its own opinion as to the manner in which the post should be filled up. Consequently, in the present case it is not possible for me to intervene in the decision of the Management as to how a particular post has to be filled up. As regards the second argument, once the Management has advertised the post it is clear that a decision has been taken to fill it up by direct

recruitment.

Learned counsel for the petitioner has argued that for this a specific resolution should have been passed.

Again it is not for Courts to micro-manage the modus-operandi of the physical management of an Aided College. That is left to the supervision of the Government which has contributed by grant-in-aid and it is for the Government to see that all requirements are fulfilled. In the present case it is not disputed that the nominee of the Government i.e. Director of Higher Education and the nominee of the University i.e. Vice Chancellor of the Kurukshetra University had participated in the selection/ interview. Thus, it can be safely assumed that they had approved the decision to fill up the post by direct recruitment.

Learned counsel for the petitioner has argued that the petitioner had worked on this post for two years during the time that it was not filled up. That may be so but that would not give the petitioner an indefeasible right to claim the post.

In the circumstances, the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**March 19, 2015**

*ashish*

**( AJAY TEWARI )  
JUDGE**