

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

CWP No. 8779 of 2011

Rajnish Kumar

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

CWP No. 6504 of 2011

Sat Pal

....Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

Date of decision: 08.10.2015

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

Present: Mr.B.S.Sidhu, Advocate, for the petitioner(s).

Mr.Pankaj Mulwani, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

This judgment shall dispose of CWP Nos.8779 & 6504 of 2011, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP No.8779 of 2011 titled *Rajnish Kumar Vs. State of Punjab & others*.

The petitioner seeks appointment as a Primary School Teacher on the strength of his merit at 56.10 (55.88 in the case of Sat Pal), as per the merit-list (Annexure P8), being a Backward Class candidate, on the ground that a person lower in merit, having obtained 54.94, has been given appointment. It is the case of the petitioner that in pursuance of the advertisement dated 05.09.2007 (Annexure P7), applications were invited and the petitioner applied for the said posts, on the strength of his qualifications, for the posts advertised in District

Ferozepur. The merit-list was prepared, in which, the petitioner figured at Sr.No.23 in his category (Sr.No.28 in the case of Sat Pal). However, no appointment order was issued to the petitioner and when the appointment order dated 31.03.2011 (Annexure P9) was issued in favour of one Naresh Kumar-respondent No.4, having merit at 54.94 (below both the petitioners), the petitioner filed representation dated 31.03.2011 (Annexure P10), taking the plea that he was not called to attend the first and the second phase of counselling and he had attended the third phase of counselling but was not entertained. He could not get information as the result was displayed on the Internet and in the village there was no facility of Internet. A reference was also made that request had been made on 15.05.2010 for issuance of the appointment order and thus, he represented for appointment. Thereafter, the petitioner approached this Court in the month May, 2011 (April, 2011, in the case of Sat Pal).

Counsel for the petitioner has submitted that similarly situated persons of District Amritsar were granted the benefit in CWP No.7759 of 2011 titled *Sukhbir Singh & another Vs. State of Punjab & others*, decided on 03.05.2011, in view of the circular dated 25.08.2010, where candidates were called in subsequent counselling who could not attend the counselling earlier. It is prayed that the petitioner is also entitled for similar relief.

However, keeping in view the peculiar facts and circumstances of the present case, this Court is not inclined to accept the submissions of counsel for the petitioner. Firstly, it is to be noticed that it is the categorical stand of the State that the public notice was issued on 10/11.05.2010, calling for the candidates to come present for the purposes of scrutiny of their documents and for counselling. The petitioner, admittedly, did not appear in the counselling, which was slated for 14.05.2010. The attendance sheet of the candidates who had attended the said counselling is annexed as Annexure R1. As many as 40 candidates were called

and a large number of them were absent. Resultantly, Naresh Kumar-respondent No.4, who was at Sr.No.39, at the bottom of the list, made the cut, in the absence of the candidates.

It is clear from the advertisement dated 05.09.2007 (Annexure P7) that the appointments were not on regular basis but for a specified period of 3 ½ years on a consolidated pay of Rs.4550/- per month, which obviously led to a large number of candidates not coming forth on the date of the counselling. In the representation of the petitioner dated 31.03.2011, which is 10 months later, it has been categorically averred that he had requested for the appointment letter on 15.05.2010, on the very next day. It is, thus, apparent that the petitioner slept over his right that somebody below him had been appointed and chose not to agitate for his grievances. It is only on 31.03.2011, the representation was filed on the strength of the appointment order issued in favour of Naresh Kumar. The reason apparent is to seek selection in the said appointment process, now, is because it is not disputed that the State, on 20.10.2010, had taken a decision that w.e.f. 01.04.2011, the persons who were initially given appointment for a period of 3 ½ years, were to be regularized. It is but obvious that in such circumstances, the petitioners realised the benefit of the appointments which had been offered and which they had chosen to forfeit and resultantly, approached this Court, at a subsequent point of time. It is settled principle that the process of selection is not to carry on forever. The above sequence of events would go on to show that the petitioners were well aware that they had missed the bus on 14.05.2010 and therefore, now, cannot contend that somebody lower in merit was appointed and they were entitled for selection.

Curtains have to come down on the selection process which cannot be kept on for eternity. The advertisement was dated 05.09.2007, the selection process was in the year 2010 and appointment order was dated 31.03.2011, in the

case of a person lower in merit. A period of more than 4 years has expired, though, it is not disputed that the petitioners had approached this Court in the year 2011 but in view of the above discussion, the petitioners are not entitled for the said benefit.

Reference made to the judgment in Sukhbir Singh's case (supra) by counsel for the petitioner would also be of no avail. In the said case, it was noted that there were 17 posts lying vacant and the appointments were ordered to be made on account of the posts having not been filled up subsequently. In the present case, there is no vacancy lying against which the petitioners can be adjusted and there was no subsequent counselling held.

In view of the above observations, the present writ petitions are hereby dismissed.

08.10.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE