

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 6319 of 2012

Decided On : July 09, 2015

Amardeep

.... Petitioner

vs.

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. R. S. Sidhu, Advocate
for the petitioner.

Ms. Minakshi Goel, AAG, Punjab
for respondents no. 1 and 3.

Mr. Tarun Vir Singh Lehal, Advocate
for respondent no. 2.

* * *

DEEPAK SIBAL, J. :

Through the present petition, the petitioner seeks a direction to the Punjab State Agricultural Marketing Board (hereinafter referred to as – the respondent Board) to appoint him as Auction Recorder under the physically handicapped quota.

Through an advertisement published in the year 2011, the respondent Board invited applications for filling up, amongst others, 142 posts of Auction Recorders, out of which three posts were reserved to be filled up from the category of physically handicapped persons. The selection was to be on the basis of a written test. The petitioner, who is orthopaedically physically handicapped and fulfilled the prescribed academic qualifications, applied for consideration of his candidature against one of the three posts advertised to be filled up from the physically handicapped category. Having been found eligible, he was issued Admit Card, on the strength of which, he appeared in the written test held on 28.08.2011. On the declaration of results, the petitioner found himself to be at Sr. No. 3 in the merit list for physically handicapped category. The public was put to notice by the respondent Board that counseling for appointment to the post of Auction Recorders would be held on 16.11.2011 and 17.11.2011. Accordingly, the petitioner went for counseling, but in spite of the fact that three posts were advertised under the physically handicapped quota and the petitioner was at Sr. No. 3 in the merit list, he was not offered appointment. Against such action, the petitioner submitted a representation, which remained un-decided, leading to the filing of the present writ petition before this Court.

I have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

It is undisputed that three posts were advertised by the respondent Board to be filled up from the physically handicapped category. It is further the admitted position that the petitioner was at Sr. No. 3 in the merit list and did not incur any disqualification qua the prescribed qualifications. As per the respondent Board, the petitioner was denied appointment on the ground that at the time of counseling, the respondent Board realised that though they had advertised three posts to be filled up under the physically handicapped quota, in fact, there was no post available to be filled up from that quota. It is further the case of the respondent Board that later on, when information was gathered from different Market Committees in the State of Punjab with regard to availability of posts under the physically handicapped quota, it was found that there were two posts which were available. Without any intimation to the public in general, the availability of these two posts under the physically handicapped quota was posted only on the website of the respondent Board and counseling for the same was fixed for 22.03.2012 and 26.03.2012. When the petitioner had appeared for the initial counseling, he was not informed that vacancy position, if any, would be displayed later on on the website, and therefore, he did not check the website. It is the admitted position that qua the counseling on 22.03.2012 and 26.03.2012, neither any intimation was sent to the petitioner nor any public notice was released through the Press.

As per counseling on 22.03.2012 and 26.03.2012, two persons

namely Rajiv Kumar and Mahesh Sharma were offered appointment, but they did not join. The original record, which was summoned and perused, showed that thereafter, Kulwinder Kaur, who was at Sr. No. 5 in the merit list under the physically handicapped quota, was appointed as a result of another counseling held on 21.03.2013. For this counseling also, neither any public notice was given nor any intimations were sent to the candidates.

Counsel for the respondent Board admits that even today, one post under the physically handicapped quota remains unfilled.

Three posts under the physically handicapped quota were advertised to be filled up. Undisputably, the petitioner was at Sr. No. 3. In spite of the same, when the petitioner went for counseling, he was denied appointment. At that time, no intimation was given to the petitioner that any subsequent counseling would be held. The representation made by the petitioner in this regard also remained unanswered. So far as the counseling on 22.03.2012 and 26.03.2012 is concerned, it was held without any intimation to the petitioner or the public at large through the Press. However, as a result of this counseling, though offers for appointment were made but no one joined. The final counseling on 21.03.2013 was also held in the same manner. As a result of this counseling, Kulwinder Kaur, who was lower in merit than the petitioner, was appointed.

It is the admitted position that even today, one post of Auction Recorder in the physically handicapped quota remains vacant. The only

other person appointed is less meritorious than the petitioner.

In view of the above, the present writ petition is allowed and the respondent Board is directed to appoint the petitioner as Auction Recorder under the physically handicapped quota w.e.f. the date the person lower in merit than him has been appointed, with all consequential benefits.

No costs.

(DEEPAK SIBAL)
JUDGE

July 09, 2015

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