

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No.820 of 2014
Date of decision: 26.03.2015

Sukhvir SinghPetitioner

versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Prateek Pandit, Advocate, for the petitioner.

Mr. Sushant Maini, DAG, Punjab.

Mr. Vikas Chatrath, Advocate, for respondents No.2 and 3.

DEEPAK SIBAL, J.

Through the present petition, the petitioner knocks the doors of this Court seeking issuance of writ in the nature of mandamus directing the respondent-Punjab Transmission Corporation Limited (hereinafter referred to as the 'Corporation') to appoint the petitioner to the post of Junior Engineer (Civil).

A few facts may be noticed.

Through advertisement dated 11.11.2011, the respondent-Corporation invited applications for filling up several posts including 44 posts of Junior Engineer (Civil). Out of the 44 posts, 21 posts were to be filled up from amongst the candidates belonging to the General Category i.e. the category to which the petitioner belongs. As the petitioner fulfilled all the prescribed qualifications, he applied for consideration of his candidature for appointment as Junior Engineer (Civil). As per the selection process, the appointment was to be on the basis of merit to be determined through a written test, in which minimum qualifying marks prescribed were 50%. The written test was to be followed by interview

which carried no marks but irrespective of the same was necessarily to be attended.

The petitioner appeared in the written test conducted on 31.03.2012 and on the declaration of the results qualified the same. In the merit list of the General Category, the petitioner stood at merit No.33. The relevant portion of the merit list which was published with regard to the General Category is reproduced below:-

S. No.	Roll No.	Name	F-name	DOB	Post Name	Category	EX SM	FF	Spots	PH	Mobt
1.	31047715	Sahil Gagneja	K.L. Gagneja	21.5.1987	JE Civil	Gen.	–	–	–	–	79.25
2.	31040389	Gunjan Jindal	Darshan Kumar Jindal	2.5.1989	JE Civil	Gen	–	–	–	–	75.75
3.	31040109	Abhishek Goyal	Suresh Kumar Goyal	17.7.1989	JE Civil	Gen	–	–	–	–	72.25
4.	31040727	Arashdeep Singh	Manjeet Singh	4.9.1991	JE Civil	Gen	–	–	–	–	69.25
5.	31040710	Mohit Jindal	Ashok Kumar Jindal	18.12.1989	JE Civil	Gen	–	–	–	–	68.25
6.	31040310	Achin Singla	Binderpal Singla	1.3.1989	JE Civil	Gen	–	–	–	–	67.75
7.	31040357	Lakhbir Singh	Sh. Gurbachan Singh	6.6.1976	JE Civil	Gen	–	–	–	–	65.25
8.	31040974	Gaurav	Vijay Kumar	4.12.1989	JE Civil	Gen	–	–	–	–	63.25
9.	31040086	Varinder Kumar	Mulkh Raj	13.7.1989	JE Civil	Gen	–	–	–	–	62.25
10.	31040528	Jasdeep Singh	Rajinder Singh	14.10.1985	JE Civil	Gen	–	–	–	–	60.25
11.	31040278	Sukant Jain	Anil Kumar Jain	15.8.1988	JE Civil	Gen	–	–	–	–	60.25
12.	3140851	Honey Bansal	Sushil Kumar Bansal	28.3.1988	JE Civil	Gen	–	–	–	–	59
13.	31040886	Shammi Bajaj	Pardeep Bajaj	15.4.1989	JE Civil	Gen	–	–	–	–	58
14.	31040423	Jatinder Singh	Guram Singh	3.12.1988	JE Civil	Gen	–	–	–	–	57
15.	31040550	Vivek Dureja	V.K. Dureja	29.08.1976	JE Civil	Gen	–	–	–	–	55.75
16.	31040655	Ramanpreet Singh	Karanjit Singh	8.06.1989	JE Civil	Gen	–	–	–	–	55.75

S. No.	Roll No.	Name	F-name	DOB	Post Name	Category	EX SM	FF	Spots	PH	Mobt
17.	31040186	Vishal Jindal	Piare Lal Jindal	12.9.198	JE Civil	Gen	–	–	–	–	55.25
18.	31040325	Rohin Kumar	Shambhu Dutt	22.10.1989	JE Civil	Gen	–	–	–	–	55.25
19.	31040130	Manoj Kumar	Ramesh Kumar 22.01.198	28.07.198	JE Civil	Gen	–	–	–	–	54.75
20.	31040139	Yasmin Sama	Hans Raj Saman	22.01.1988	JE Civil	Gen	–	–	–	–	54.25
21.	31040633	Lalit Bali	Ved Parkash Bali	10.09.1979	JE Civil	Gen	–	–	–	–	54
22.	31040274	Aman Singla	Jashpaul Singh	21.02.1990	JE Civil	Gen	–	–	–	–	53.25
23.	31040674	Jagbir Singh	Kultar Singh	14.1.1988	JE Civil	Gen	–	–	–	–	52.5
24.	31040807	Janvy Bansal	Ashok Bansal	23.3.1990	JE Civil	Gen	–	–	–	–	52.5
25.	31040531	Amanpreet Singh	Shivraj Singh	20.08.1991	JE Civil	Gen	–	–	–	–	52
26.	31040262	Abhishek Rajdeva	Khuswant Rai	21.1.1992	JE Civil	Gen	–	–	–	–	52
27.	31040910	Balwinder Singh	Trilok Singh	18.12.1988	JE Civil	Gen	–	–	–	–	51.25
28.	31040845	Mayank Gupta	Jagdamba Parsad Gupta	14.2.1987	JE Civil	Gen	–	–	–	–	50.75
29.	31040513	Saurabh Gupta	Ramesh Kumar Gupta	1.8.1988	JE Civil	Gen	–	–	–	–	50.5
30.	31040050	Karan Gupta	Bharat Bhushan	7.2.1990	JE Civil	Gen	–	–	–	–	50.5
31.	31040808	Parveen Kumar	Lachman Dass	21.09.1981	JE Civil	Gen	–	–	–	–	50.25
32.	31040470	Kushaldeep Singh Randhawa	Gurmukh Singh Randhawa	11.10.1984	JE Civil	Gen	–	–	–	–	50.25
33.	31040533	Sukhvir Singh	S. Sikander	26.09.1992	JE Civil	Gen	–	–	–	–	50

It is the admitted case between the parties that 20 out of the 21 posts meant for the General Category were filled up and the last person to be appointed against the 20th post was one Parveen Kumar son of Lachman Dass who stood at merit No.31 in the merit list (as

reproduced above). Thus, one post remain unfilled. In order of merit, between the petitioner and the above said Parveen Kumar was one Kushaldeep Singh Randhawa who admittedly did not appear for interview and thus, the petitioner staked his claim to the 21st post. His claim having been negatived gave him a cause to approach this Court through the present writ petition.

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

Once, it is admitted that there were 21 posts of Junior Engineer (Civil) meant for the General Category as advertised through the advertisement dated 11.11.2011, only 20 posts out of them had been filled up and that the petitioner was the next eligible candidate on merit, then it would not take me long to hold that the petitioner deserved to be appointed in accordance with his merit.

Out of the 21 posts of Junior Engineer (Civil) so advertised to be filled up from amongst candidates belonging to the General Category, initially only 20 posts were filled up and the 20th post was offered to one Parveen Kumar son of Lachhman Dass. For the 21st post between Parveen Kumar and the petitioner was one Kushaldeep Singh who admittedly did not appear for interview when called for the same. Even otherwise, it is the un rebutted case of the petitioner that Kushaldeep Singh has never staked a claim for appointment against the 21st post meant for the General Category for the last over three years. On the other hand, the petitioner has been consistently clamouring for the same. That being so, I find no reason in fact or in law to deny the petitioner his rightful claim.

The stand of the respondent-Corporation that in the meanwhile another advertisement had been issued on 03.08.2012 through which more posts of Junior Engineer (Civil) had been advertised and therefore, they could not consider the case of the petitioner is a stand which needs to be considered only to be rejected. It is admitted by the respondents that through letter dated 25.01.2013 Kushaldeep Singh Randhawa who was one step higher than the petitioner, in the order of merit was asked to appear for the interview on 05.02.2013 but he did not appear for the same and therefore, he was declared ineligible. Thus, as per the respondent-Corporation's own admission, candidates on the merit list qua the earlier advertisement dated 11.11.2011, i.e. the advertisement against which the petitioner was an applicant, were being considered even after the issuance of second advertisement on 03.08.2012. This is clear from the stand taken by the respondent-Corporation in Para No.14 of the written statement filed before this Court, which is reproduced below for ready reference:-

“14. That in reply to the contents of para No.14 of petition, it is stated that to fill up the left over/unfilled posts of CRA 01/2011, advertisement CRA 02/2012 was issued on 03.08.2012. In case of JE (Civil), Sh. Mohit Jindal was selected but was on extension upto 05.12.2012, as such the post was not carried forward. After expiry of extension, Sh. Kushaldeep Singh Randhawa, candidate next in merit was directed to appear on 25.01.2013 for documentation checking to be held on 05.02.2013, but he did not appear. Meanwhile as referred above, the Corporation concluded that the validity of CRA 01/2011 had completed its validity, when process of CRA 02/2012 had started, so the post could not be filled. Still further, the submissions made in the preliminary objections be read as part and parcel of the present reply.” [emphasis supplied].

It is further admitted before me that the post against which the petitioner seeks appointment was not included in the posts advertised through the later advertisement dated 30.08.2012.

In view of the above, I unhesitantly hold that the petitioner is entitled to be appointed as Junior Engineer (Civil) as per his merit in pursuance to his application made in response to the advertisement dated 11.11.2011.

As soon as the candidate immediately higher in merit to the petitioner namely Kushaldeep Singh Randhawa did not appear for the interview on 05.02.2013, rendering himself ineligible, the post should have been offered to the petitioner and as this was not done, the petitioner was precluded from discharging his duties as Junior Engineer (Civil) due to the above inaction on the part of the respondent-Corporation. Accordingly, I hold him entitled to all consequential benefits including continuity of service w.e.f. 01.03.2013.

The writ petition stands allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

March 26, 2015
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