

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

C.W.P. No.7603 of 2015

Date of Decision : 24.04.2015

Sh. Rakesh Kumar

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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

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)

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

The petitioner is working as a Peon in the respondent-College. The respondent-College advertised the post of Clerk. The only contention of the learned counsel is that as per the rule before filling up a vacancy the Management has to first decide a mode whether it has to be filled up by promotion or by direct recruitment.

In my opinion, once the College has advertised the post it is clear that it has decided to fill up the post by direct recruitment. In this regard, reference may also be made to the judgment and order dated

19.03.2015 passed in CWP No.20152 of 2014 titled as **Ramesh Kumar vs.**

State of Haryana and others, wherein this Court has held as follows:-

“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.”

In the circumstances, no relief can be given to the petitioner.

Petition is dismissed.

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

April 24, 2015

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**(AJAY TEWARI)
JUDGE**