

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

CWP No. 15319 of 2012

Date of decision:-25.04.2016

Dharam Pal

...Petitioner

versus

State of Haryana and ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J. (Oral)

Petitioner has approached this Court with a grievance that he had applied for the post of Science Master under the General Category and taken part in the selection process thereof. Result of the selection was declared and since the Roll Number of the petitioner was not mentioned in the General Category candidates, he did not further look at the other Roll Numbers mentioned in the different categories. As a matter of fact, now he has come to know through a letter dated 12.06.2012 that he has been duly selected under the General Category (Outstanding Sports Person) and has been issued the appointment letter, which he never received. He further contends that the respondents have

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declared the result of the petitioner in the Outstanding Sports Persons (General Category) in which the petitioner had never applied. Now, the respondents have proceeded to cancel the candidature of the petitioner because of non-joining of the petitioner on that post. It has been contended that the petitioner has not been issued any appointment letter as he has not received any.

On notice, a written statement has been filed on behalf of respondent No. 3 admitting that petitioner with Roll No. 334 (General Category) has been selected for the post of Science Master, Education Department, Haryana in the main select list of OSP (General Category) at Merit No. 597 on account of non-availability of suitable candidates in this category in accordance with Chief Secy to Government of Haryana instructions contained in letter dated 07.10.1998.

In the written statement filed by respondent Nos. 1 and 2, it has been stated that the name of the petitioner was at Sr. No. 597 of the selection list dated 12.01.2011 but he has not joined the post of Science Master despite the fact that he was called for counseling to give him appointment through publication in various newspapers mentioned in para no. 2 of the written statement. When the petitioner did not attend any counselling then he was given appointment and allotted Govt High School Malad (Mewat) vide order dated 05.12.2011 through its websites and was directed to join within 15 days from the issuance of appointment

letter but still the petitioner did not turn up to join the same. Thereafter, the appointment letter was withdrawn vide order dated 08.06.2012.

In compliance of order dated 01.07.2014, petitioner was given personal hearing on 18.07.2014 by respondent No. 2 but his case was rejected on the ground that the validity of the selection list was one year and it has now been expired. The claim of the petitioner was submitted to Chief Secy to Government of Haryana on 09.09.2014 seeking extension of validity of the selection list dated 12.01.2011 sent by Haryana Staff Selection. This validity of selection list was not extended.

After going through the contents of the writ petition, the writ petition deserves to be allowed.

The facts which are not disputed that the petitioner applied for the above said post under the General Category and the result was declared on 07.10.2011 in the newspaper (P-3) wherein in the general category, the roll no of the petitioner was not shown either in the list of successful candidates or even in the waiting list candidates. However, the respondents vide selection list dated 12.01.2011 showed the name of the petitioner in the main select list of OSP (General Category) at Merit No. 597 in the newspaper, on account of non-availability of suitable candidates in this category in accordance with Chief Secy to Government of Haryana instructions contained in letter dated 07.10.1998. Subsequently, petitioner received an envelope from the office of

Directory, Elementary Education, Haryana, which was posted to him on 18.06.2012 containing a document dated 08/12.06.2012 whereby he was informed by respondent No. 2 that he was offered appointment vide various letters mentioned in para no. 7 of the petition and a public notice was also given in Amar Ujala on 22.12.2011 and 24.12.2011 whereby he along with other candidates was asked to report for duty at the respective schools within 15 days but since the petitioner did not reach the office, his appointment letter was withdrawn with immediate effect. Petitioner immediately gave his representation to respondent No. 2 stating therein that he had not received any appointment letter and thus he may be allowed to join.

Today, learned State counsel on instructions from Vijay Ahlawat and Rakesh Kumar, Assistants, Haryana Staff Selection Commission has informed the Court that the petitioner applied under the general category and at the time of declaration of result on website and newspapers, that petitioner with Roll No. 334 (General Category) has been selected for the post of Science Master, Education Department, Haryana in the main select list of OSP (General Category) at Merit No. 597 against 3 vacants posts, on account of non-availability of suitable candidates in this category in accordance with Chief Secy to Government of Haryana instructions contained in letter dated 07.10.1998.

It has further been stated that the last candidate in the

general category scored 53.01 marks and the petitioner scored 51.47 marks.

An affidavit dated 22.04.2016 by Director Elementary Education, Haryana, has been filed in the Court today stating therein that all the candidates including the petitioner who did not join duty inspite of many opportunities, were given information through newspapers and department websites. No separate communications to any of these candidates was made except the withdrawal of appointment letters.

In view of the above, the petitioner had no occasion to see his result in the main select list of OSP (General Category), as he was not aware about the instructions dated 07.10.1998. Thus, the department should have informed the petitioner personally by sending him letter that he had been selected in OSP (General Category), in view of instructions dated 07.10.1998. However, the department had adopted very casual approach by issuing a public notice dated 08.06.2012 withdrawing the appointment letter of the persons, who did not join, in view of public notice dated 22.12.2011 and 24.12.2011, by giving them 15 days time. Petitioner received an envelope from the office of Directory, Elementary Education, Haryana, which was posted to him on 18.06.2012 containing a document dated 08/12.06.2012 whereby he was informed by respondent No. 2 that he was offered appointment but he did not join and hence his appointment letter was withdrawn. The petitioner immediately

approached the authorities by giving representation dated 22.06.2012.

The claim of the petitioner cannot be rejected on the ground that the validity of the selection list was expired on 11.01.2012. Further, if the department can send personal letter to the petitioner on 08/12.06.2012, the department can also send a letter to the petitioner informing him that he had been selected under OSP (General Category).

In view of the above facts, the writ petition is allowed and order dated 08/12.06.2012 (P-5) is hereby quashed. Respondent-department is directed to issue appointment letter to the petitioner, within a period of two weeks from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

25.04.2016

G Arora