

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

Civil Writ Petition No.15020 of 2013

Date of Decision: 02.08.2016

Pawandeep Kaur

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ranjodh Singh Sidhu, Advocate for the petitioner.

Mz. Sudeepti Sharma, Deputy Advocate General, Punjab
for the respondents.

JASWANT SINGH, J. (Oral)

The petitioner was one of the aspirants for selection and appointment against 316 posts of Assistant Librarian, advertised on 23.09.2009 (**Annexure P-1**), to be filled up on contract basis. As per the advertisement, applications were to be submitted online; and the merit was to be computed as per the percentage of marks in the educational and professional qualifications up till the maximum 80 marks. There was an award of another 10 marks for higher qualifications. The ratio of the posts was to be filled up on 50:50 basis from the male and female candidates. The information regarding different stages of selection process was to be collected from the website.

The merit of the petitioner on the basis of her qualification was computed and she was placed at Sr. No.14 in the provisional merit list (**P-5**)

as uploaded on the website. She was required as per the Public Notice to appear for counseling for scrutiny of her documents on 06.05.2010. Upon re-scheduling of the counseling pursuant to the preparation of separate merit list for male and female candidates, as per duly notified public notice, the petitioner was to appear for 2nd counseling for scrutiny of documents on 13.12.2010. On both the notified dates of counseling, the petitioner did not appear and hence her right for selection and appointment stood forsaken.

In the present petition, a challenge has been laid to the speaking order dated 15.01.2013 (**Annexure P-14**), whereby her claim for appointment as Assistant Librarian on contract basis based upon her merit stands declined in view of the fact that she has not appeared on the notified dates of counseling on 06.05.2010 and 13.12.2010. The claim also has been declined on the ground of the entire process having been exhausted.

Upon notice, a reply has been filed on behalf of the State by way of an affidavit dated 08.09.2014 of Sh. Kamal Kumar, Director Public Instructions (Secondary Education), Punjab.

Learned Counsel for the petitioner has argued that the petitioner had appeared for counseling on 09.07.2011 pursuant to the Public Notices (**Annexures P-3 and P-4**) and, therefore, in the light of her higher merit, she cannot be denied appointment being violative of Articles 14 and 16 of the Constitution.

Learned State Counsel has reiterated the stand in the written statement, as also as stated in the impugned speaking order.

After hearing learned Counsel for the parties, no case for interference is warranted as the petition is devoid of any merit.

In the reply, it has been categorically stated that public notices in leading newspapers were duly notified requiring the candidates from merit position 01 to 189 to appear for counseling and scrutiny of their documents on 06.05.2010, as also subsequently on the 2nd counseling on 13.12.2010. On both the occasions, the petitioner had failed to appear for scrutiny of her documents, upon which her merit had been computed. On the subsequent date of counseling on 09.07.2011, only the candidates, who were lower in merit and next to the candidates already invited for scrutiny of documents, were required to appear i.e. from merit position from 211 to 274.

No replication has been filed disputing the aforesaid factual situation. The remaining vacancies, if any, have since been advertised afresh for a fresh recruitment through the Subordinate Services Selection Board, Punjab. Thus, the petitioner from her own act and conduct is estopped from seeking the claim of appointment, apart from the claim being highly belated as the selection list prepared in the year 2010 would be deemed to have lapsed and selection process concluded. In a similar circumstance, a Division Bench of this Court in LPA No.1781 of 2014 titled as “**Loveleen Kaur Versus The State of Punjab and others**”, decided on 03.11.2014, considering the case of a similarly situated candidate, who was denied appointment due to non-appearance for counseling inspite of merit, held as under:-

“ We do not find that any such direction can be given. The publication to conduct counseling was done through a public notice. The second counseling was conducted in the year 2011 i.e. more than 3 years earlier. The selection process once concluded, cannot be kept pending till eternity so as to confer right on the applicants for appointment. However, as and when any fresh advertisement seeking appointment is issued, it shall be open to the

appellant to apply in accordance with law.

We do not find any merit in the appeal and the same is

hereby dismissed. ”

In view of the above, the present petition stands dismissed.

August 02, 2016

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>