Pooja Sharma
2017.01.09 15:02

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 1506 of 2016

DATE OF DECISION: 20.12.2016

Bhupinder Singh .....Petitioner

Versus

State of Punjab and another .....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.S. Toor, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Mr. Anil Sharma, Advocate
for respondent No.2.

****

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of mandamus directing respondent No.2 to grant an opportunity to the petitioner to participate in the counselling for scrutiny of his certificates and to join the post of Inspector PUNSUP Grade-II as he was selected and placed in merit list at Sr. No. 23 prepared by respondent No.2. A further prayer has also been made for quashing of letter dated 7.12.2015 (Annexure P-7), whereby, claim of the petitioner to appear in counselling has been rejected.

Briefly the facts of the case as made out in the present petition are that applications were invited by respondent No.2 for filling up various posts including the post of Inspector Grade-II and the last date for submission of applications was 18.9.2014. Out of total 159 posts, 75 posts were for General Category, 15 for Majbi/Valmiki, 15 for Scheduled Caste

and others, 14 for Backward Class and 3 were for physically handicapped. The petitioner being eligible for the post of Inspector Grade-II submitted his application online along with details of his academic qualification and experience. The petitioner appeared in the written test conducted on 5.4.2015 and total 49 candidates including the petitioner cleared the same after which the merit list was prepared. The name of the petitioner was at Sr. No. 23 in the merit list and he along with other candidates was called for counselling on 21.9.2015 but due to ailment of his mother, he could not appear in the counselling. The petitioner submitted an application to grant him an opportunity to participate in the counselling for scrutiny of the documents. An opportunity was granted to the petitioner to appear in the counselling by sending him an email but it could not be received by him and, therefore, he could not attend the same. The petitioner again submitted an application dated 17.11.2015 to respondent No.2 but his claim was rejected vide order dated 7.12.2015, which is subject matter of challenge in the present petition.

Learned counsel for the petitioner contends that the petitioner qualified the written test and was at Sr. No. 23 of the merit list. He could not appear in the counselling due to circumstances beyond his control. The purpose of counselling was to scrutinize the documents only. Learned counsel further submits that a legal right had accrued to the petitioner to join the post of Inspector Grade-II but still his claim has been rejected. Learned counsel also submits that action of the respondents in rejecting the claim of the petitioner is arbitrary, illegal, unconstitutional and against the principles of natural justice and as such the impugned order is liable to be quashed.

Learned counsel for respondent No.2 submits that the petitioner was given an opportunity and an email was also sent to him but he could not attend the counselling. Even an application submitted by the petitioner was accepted and another chance was given to him by sending letter dated 1.10.2015 through registered post and he was given last opportunity to appear for counselling on 15.10.2015 along with all original documents but still the petitioner could not attend the counselling. Learned counsel further submits that the petitioner has concealed the factum of receipt of letter dated 1.10.2015(Annexure R2/1), wherein, it has specifically been mentioned that he was given last opportunity to appear along with original papers on 15.10.2015 for counselling but neither he came present nor moved any application. Learned counsel has also relied upon the judgment of this Court rendered in L.P.A. No. 1781 of 2014 titled as **Loveleen Kaur Vs. State of Punjab and others** decided on 3.11.2014, wherein, it was held that in case the petitioner does not appear for counselling then he has no right to be considered and offer will be made to the next candidate.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file.

The facts regarding publication of advertisement and inviting of applications by the respondent-department are not disputed. The petitioner applied for the post of Inspector Grade-II and appeared in the written test which was cleared by him. The name of the petitioner figured at Sr. No. 23 of the merit list. The petitioner along with other candidates was called for counselling on 21.9.2015 by sending an email. The petitioner could not present himself on that date and thereafter another chance was given to him for appearance in counselling on 15.10.2015 but again he did

not come present. Thereafter, the petitioner moved another application on 17.11.2015, which was not considered and ultimately his claim was rejected vide order dated 7.12.2015.

Similar issue was involved in **Loveleen Kaur's case (supra)**. The appellant in that case was in the zone of consideration and was called for counselling but she did not appear before the authority conducting the counselling. The appellant submitted a representation, which was not entertained. Thereafter the petitioner filed a writ petition and in pursuance of direction issued in the writ petition, the claim of the petitioner was rejected having failed to appear in the counselling. Thereafter, LPA was filed by her, which was dismissed by holding that in case the candidate failed to appear for counselling on a specific date, no grievance can be entertained so as to direct respondent to hold another counselling.

In the present case also the date of counselling was fixed for 21.9.2015 and 15.10.2015 by respondent No.2 but the petitioner could not present himself and ultimately his claim was rejected vide letter dated 7.12.2015. In case the petitioner is allowed to appear for counselling after completion of process of selection, there cannot be an end to the litigation and process cannot be continued for longer period.

Accordingly, there is no force in the arguments advanced by learned counsel for the petitioner and the present petition being devoid of any merit is hereby dismissed.

20.12.2016 **(DAYA CHAUDHARY)**
pooja **JUDGE**

Whether speaking/reasoned Yes
Whether reportable Yes