

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

**CWP No.20561 of 2013
Date of decision: 09.09.2016**

Sunil Kumar

..Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Pushpinder Kaushal, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. AG, Punjab
for respondent No.1-State.

Mr. Shekhar Verma, Advocate
for respondent No.2.

Daya Chaudhary, J. (Oral)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondent No.2 to allow the petitioner to join as Computer Faculty by allotting him station on the basis of his selection as per letter dated 23.04.2013 (Annexure P-6) issued by respondent No.2.

Learned counsel for the petitioner submits that the petitioner was offered appointment by allotting him station but subsequently, he was not allowed to join the duty against the station allotted to him. The action of the respondents is not only malafide but illegal and unreasonable as well. Learned counsel further submits that the post is still lying vacant as the candidate, namely, Palwinder Kaur, who was at the end of merit list, has not joined duty and the petitioner can be considered against that post. The

marks obtained by the petitioner were 22.25 and he has applied in the category of 'Backward Class Ex-Servicemen Dependent'. Learned counsel also submits that the petitioner fulfilled all basic requirements for the post as mentioned in the advertisement and he was selected. He qualified the test as well as appeared in the counselling but no waiting list was prepared. The petitioner made representation to the concerned authorities but no action was taken.

Learned counsel for respondent No.2 has not disputed the facts with regard to non-joining of Palwinder Kaur, who was at the end of the merit list and also that the post is still lying vacant. Learned counsel also submits that initially, the appointment was on contract basis for a period of one year but it was likely to be extended for further one year and upto three years by considering the performance of the concerned candidate.

Heard arguments of learned counsel for the petitioner as well as learned counsel for respondent No.2 and have also perused the documents available on the file.

Admittedly, total 700 posts of Computer Faculty were advertised on 03.12.2011. As per the reservation policy of the Government of Punjab, 14 posts were reserved for 'Backward Class Ex-Servicemen Dependents'. The posts were to be filled up on the basis of written test conducted through C-DAC and the same was conducted on 18.03.2012. The selection was to be made on the basis of merit of the test. Thereafter, first counselling was held from 28.09.2012 to 30.09.2012, in which, 5 posts out of 14 posts of Backward Class Ex-Servicemen Dependents Category, where marks were 38.75 to 31.25, were filled up. Second counselling was held

from 11.03.2013 to 13.03.2013 for filling up remaining 9 posts under

Backward Class Ex-Servicemen Dependents Category. The petitioner secured 22.25 marks under Backward Class Ex-Servicemen Dependents Category and he was the last selected candidate.

Admittedly, no waiting list was prepared whereas the waiting list should have been prepared. In case, some of the selected candidates did not join duty then the next candidate in the waiting list could be considered. The petitioner is admittedly, next to the last selected candidate, namely, Palwinder Kaur, who did not join the duty. He has a right to be considered against said post as the same is still lying vacant.

Although initially the appointment was made for a period of one year on contract basis and the first year has already been completed and other candidates have been allowed to continue in the next session after considering their performance.

Accordingly, the present writ petition is allowed and the respondents are directed to consider the case of the petitioner against the vacancy, which is lying vacant as last selected candidate, namely, Palwinder Kaur, has not joined the duty. The respondents are also directed to do the needful within a period of two weeks and in case, other formalities are complete then the petitioner be allowed to join the duty as per terms and conditions of the advertisement.

09.09.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No