

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

**CWP No.4770 of 2011 (O&M)
Decided on : 11.03.2016**

Surinder Pal Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.B.S.Bajwa, Advocate,
for the petitioner.

Mr.L.S.Virk, Addl., AG., Punjab.

G.S. Sandhawalialia , J. (Oral)

The petitioner seeks directions for appointment to the post of a teaching fellow on account of the fact that the petitioner is more meritorious than the last selected candidates who were lower in merit. The advertisement in question is dated 5.9.2007 for recruitment of 9998 posts of teaching fellows by the Education Department, Punjab.

It is the case of the petitioner that in pursuance of the same, he had applied but was not called for interview as the cut-off list was at 62% and the petitioner was having only 58.51 marks and, therefore, the petitioner did not fall within the zone of consideration at that point of time. Later on, it transpired that one Kamal Singh who had lower merit had been appointed having 58.014 marks.

Resultantly, the petitioner approached this Court that the persons lower in merit had been appointed.

In the written statement filed by the State, the plea taken was that the counselling was held on 18.11.2009 and the petitioner stood at serial No.92 who did not attend the counselling and was shown absent and, therefore, he could not be offered appointment. The selection process was completed on 29.1.2010 and the present writ petition had been filed thereafter. Kamal Singh had attended the counselling held on 18.11.2009 and he had been appointed as the petitioner was absent. The counselling record was attached as Annexure R-1 to show that Kamal Singh was at Serial No.106 whereas the petitioner was at Serial No.92 and had been marked absent.

In the reply filed by respondent No.5-Kamal Singh, the stand taken was that subsequent counselling was also held on 14.5.2010 and 11.9.2010. Another opportunity was given to appear for interview on 9.9.2011 and 22 candidates who were left from counselling were given a chance to appear for the interview and at that point of time, also the petitioner failed to appear.

It was further averred that Prithipal Singh having 58.128 marks had also been selected and was the last candidate at Serial No.31 whereas Kamal Singh had 58.410 marks as per Annexure R-5/1 and was at serial No.24. Resultantly, the petitioner also impleaded Prithipal Singh as respondent on 4.2.2015.

Replication was filed that the public notice had been issued on 18.11.2011 (Annexure P-6) whereby 147 posts for District

Gurdaspur which remained unfilled on account of the litigation in CWP No.12275 of 2000 titled Neelam Rani v. State of Punjab which was decided on 8.1.2010 were to be filled up. The date of counselling was fixed as on 13.12.2011. It is the case of the petitioner that as per Annexure P-7, he appeared on 13.12.2011 but was still not considered and the petitioner's reliance was on Annexure P-7 whereby he alleged to have appeared in the counselling fixed for 13.12.2011.

Resultantly, this Court on 5.1.2016 passed an order that an affidavit be filed as to how the petitioner was not considered on 13.12.2011 inspite of the fact that he had more marks than the last candidate appointed. The additional affidavit has been filed today wherein the list of the applicants who attended the counselling on 13.12.2011 is annexed. The name of the petitioner does not find mention in this attendance list. In the affidavit, it has also been averred that Annexure P-7 is a doubtful document and the petitioner had never attended the counselling on the said date. Photocopy of Annexure P-7 has been furnished by the learned counsel for the petitioner.

Perusal of the same would go to show that it is not signed or stamped by any official and it is only a proforma which has been filled out and, therefore, no credence can be given to the fact that the petitioner had appeared on 13.12.2011 as now alleged.

Another important aspect is that the present writ petition was already pending before this Court in December, 2011. If the petitioner being aware of the public notice dated 18.11.2011 had appeared before the counselling committee but had not been allowed to

participate, he would have filed an application immediately before this Court. This aspect was raised for the first time by way of filing replication and placing Annexure P-7 on record in January, 2015. Thus, after a period of 3 years, no reliance can be placed upon the same.

Perusal of the list which is appended as Annexure R-2 would also go to show that the candidates higher in merit were counselled. This is apparently in view of the fact that in view of the judgment in *Neelam Rani's case* (supra), a joint merit list of both male and female had to be prepared and the applicants who were earlier lower in merit had succeeded in getting appointments but their appointments had been protected by the Division Bench of this Court. It is, thus, apparent that Prithipal Singh who had less marks was successful since he had appeared prior to the last counselling held on 13.12.2011 and, therefore, no fault can be found as such in the matter of selection. The petitioner is himself responsible for not appearing at the relevant point of time and, therefore, no relief can be granted to him.

The writ petition accordingly stands dismissed.

March 11, 2016

Paritosh Kumar

(G.S. SANDHAWALIA)

JUDGE