

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision:2.8.2016

1.
CWP No.19215 of 2015

Ankit		... Petitioner
	Versus	
District Industries Centre, UT Chandigarh & ors.		... Respondents

2.
CWP No.15643 of 2015

Ankit		... Petitioner
	Versus	
Haryana Vidhan Sabha Secretariat & ors.		... Respondents

3.
CWP No.14383 of 2015

Ankit		... Petitioner
	Versus	
Govt. Medical College & Hospital Chandigarh & ors.		... Respondents

4.
CWP No.4418 of 2015

Ankit		... Petitioner
	Versus	
Haryana Human Rights Commission & anr.		... Respondents

5.
CWP No.6703 of 2015

Ankit		... Petitioner
	Versus	
National Institute of Technical Teacher's Training and Research, Chandigarh & anr.		... Respondents

6.
CWP No.9246 of 2015

Ankit

... Petitioner

Versus

Punjab and Haryana High Court Chandigarh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Lalit Rishi, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. SS Kharb, Advocate,
Mr. Vishal Sodhi, Advocate, and
Mr. Jaivir Chandail, Advocate,
Mr. Daman Dhir, Advocate,
Mr. IS Sidhu, Advocate,
Mr. Kuldeep Singh, Advocate, for
Mr. Sandeep Moudgil, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of the above cited cases as common questions of law and fact are involved in them which can conveniently be decided by a common order. Broad facts are taken from CWP No.19215 of 2015 for convenience.

2. This Court declared in CWP No.20978 of 2010 (Smt. Sonia Nagpal alias Sonia Saluja v. State of Haryana & ors.), on December 9, 2010 that shortage of Stenographers in Sessions Divisions is improper ground for declining request for forwarding an application through proper channel submitted by an employee who desires to seek employment elsewhere.

3. In the present case, the petitioner's request made through proper channel to the learned District & Sessions Judge, Ambala

requesting forwarding of his application to quarters concerned was declined by the impugned order on the same ground declared bad in *Sonia Nagpal* case (supra). Several of his applications in response to public advertisements calling applications from eligible candidates for direct recruitment have not been forwarded. The learned District & Sessions Judge, Ambala has declined the requests citing shortage of stenographers in his Sessions Division maintaining that services of the petitioner cannot be spared. The petitioner has approached this Court under Article 226 of the Constitution for directions to the respondents to forward his name to the destinations concerned where he wants to apply for consideration of his candidature for direct recruitment.

4. This Court vide order dated September 11, 2015 called upon the District and Sessions Judge, Ambala to file an affidavit explaining the circumstances in which the impugned order was passed declining the petitioner's request for forwarding his name to the employers he has applied for jobs with and the affidavit has been filed in which nothing special has been said except that the impugned order was passed in the interest of administration of justice on account of shortage of manpower. The order may be well intended but it abrogates the rights of the petitioner to mark his own career elsewhere according to his wishes and potential. Declining such a request would appear to be in human bondage which the law does not permit. Public employment rights guaranteed in Part-III of the Constitution and the freedoms enjoyed therein by citizens to promote their careers; the right to change one's job and to be relieved in accordance with rules is fundamental in character. This leash placed

on the petitioner's neck will violate the petitioner's basic human rights and at least the Court cannot be seen approving such an order being the *sentinel qui vive* of the Constitution and the upholder of the rule of law and of equal opportunity rights.

5. It has been pointed out in defense of these cases that there are instructions of the High Court regarding sending officials on deputation to other departments or on transfer basis and for this reason it is urged by the counsel for the respondents that if such requests are accepted and forwarded no lien would be retained and if one intends to go he has to submit his resignation from their post held by him. In my considered opinion these instructions do not apply to the case in hand because the petitioner's case is not based on transfer or deputation basis. On the other hand, the petitioner craves leave to compete for direct recruitment in other departments of the Government and elsewhere, as have advertised posts to be filled by direct recruitment for which the petitioner may be eligible for consideration but he has pre-eminently a right to apply, a right to be considered. If the impugned order is sustained it would amount to enslavement. Slavery is a relic of the past.

6. I would, therefore, allow this petition by quashing the impugned order dated August 31, 2015[Annex. P-8/A] and similar orders passed in the connected cases. A permanent direction is issued to the District and Sessions Judge, Ambala, to forward the names of all who wish to try their luck elsewhere which includes the petitioner and other employees who may wish to apply for direct recruitment in other departments and forward their applications to the destinations concerned

enabling them to compete for direct recruitment elsewhere according to their merit to improve their lot. However, these adventures in the recruitment processes in other employments would remain compliant of the rules of service, if any, in case the petitioner succeeds in trysts with destiny. It is trite to say that in cases where the other employers are in the process of withdrawing their recruitment process itself, as pointed out by Mr. I.S. Sidhu and Mr. Vishal Sodhi in their respective cases, this order would obviously have no bearing and the apprehension expressed is misplaced.

7. A copy of this order be circulated in all the Sessions Divisions in the three territories over where this Court exercises jurisdiction.

(RAJIV NARAIN RAINA)
JUDGE

2.8.2016
monika

Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No