

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

Date of decision: 11.04.2016

CWP No.610 of 2011

Amandeep Singh & others ...Petitioners

Vs.

State of Punjab & others ...Respondents

CWP No.3332 of 2011

Mahesh Kumar ...Petitioner

Vs.

State of Punjab & others ...Respondents

CWP No.5766 of 2011

Sandeep Kumar ...Petitioner

Vs.

State of Punjab & others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Ruchi Sekhri, Advocate, for the petitioner
in CWP No.610 of 2011.

Mr. Vivek Sethi, Advocate, for the petitioner
in CWP No.3332 of 2011.

None for the petitioner
in CWP No.5766 of 2011.

Mr. Vaibhav Sharma, DAG, Punjab.

Mr. A.D.S.Sukhija, Advocate,
for respondent No.4 - PSWC.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

1. This order will dispose of the above three cases bearing CWP No.610 of 2011; CWP No.3332 of 2011 & CWP No.5766 of 2011, as common questions of law and fact are involved in them, which can conveniently be decided by a common order.

2. The selection process initiated by Punjab State Warehousing Corporation – respondent No.4 in 2003 for filling up 100 posts each of Godown Assistant and Technical Assistants never took off beyond inviting applications from the eligible candidates and considering some of them for interviews which lastly was in August, 2003 a goodly 13 years ago. The first notice for postponing the interviews were issued on 12.08.2003 with no definite plan ahead to make the direct recruitment. The selection process remained static for 7 years and was thereafter scrapped.

3. Two months thereafter, a fresh advertisement was issued notifying the same vacancies which included 80 posts of Godown Assistants and 118 posts of Technical Assistants. This selection was taken to its logical end and appointments have been made the elected candidates soon thereafter.

4. The petitioners approached this Court in 2011 pursuant to a media report published long ago in the year 2003 in a newspaper damning the Managing Director of the Corporation who was said to have committed misdemeanours in the earlier selection process. Learned counsel for the Corporation submits that the Managing Director on his own had furnished his explanation following the said report to the Government and no action has been taken thereon nor was required to be initiated.

5. The news item was published on 09.08.2003 and these petitions have been brought in the year 2011. Ms. Sekhri appearing for the petitioners has based her case on the decision of the Supreme Court in East Coast Railway & another Vs. Mahadev Appa Rao & others, (2010) 7 SCC 678 to submit that judicial review on the ground of arbitrariness demands that even though a candidate passed an examination or whose name appears in the select list does not have a indefeasible right to be appointed, yet appointment cannot be denied arbitrarily, nor can selection test be cancelled without giving proper justification. The writ Court is empowered to give appropriate directions where decision is found to be arbitrary. But while she relies on this decision, she misses the point in the present case pursuant to the recruitment process initiated in 2003, did not result in preparation of a selection list from where a semblance of rights could be traced. No selection took place except that some of the candidates were called for interviews before the process was called off. The select list would mean the final merit determined by the recruiting agency determining inter se merit positions between all the candidates.

6. In the present case, though some interviews were held, but they were postponed mid-way and therefore, the petitioners did not acquire any accrued or vested right in the selection process and they have thus no indefeasible right to appointment by reviving the selection process rendered infructuous and that too by a judicial command from the writ Court issuing a writ in the nature of mandamus to the Corporation to complete the process which had become Law 23 of the Rules of Cricket i.e. a dead ball.

7. The boiling point achieved in *Mahadev Appa Rao's* case is not present in this case since where the entire selection process has been discarded and replaced by a fresh recruitment process.

8. The petitioners did not participate in the second selection process and have pegged their hopes on false start of the old recruitment process – 2003, which to the mind of this Court can bear no fruit for them. In absence of any right in the petitioners, which is in the nature of fundamental right or a corresponding obligation of the Corporation to revive a dead selection process, no relief can be granted to the petitioners at this distance of time especially when the candidates in the fresh process stand selected and appointed to the posts claimed. Besides, each of the petitions in this bunch suffers from inordinate and gross delay and enormous laches with limitations long running out and quite apparently so. The selection process which had been uprooted in 2003 was questioned in writ petition filed in 2011 and could not be replanted. By that time much water had flown down the bridge irreversible.

9. Lastly, it is contended by the learned counsel for the petitioners that this Court may consider awarding damages to the petitioners for breach of legitimate expectation and for rendering some of the candidates over-age at the time the second selection process was initiated.

10. No such prayer has been made in the petition and therefore, the contention of the learned counsel that such a direction can yet be issued even under the portmanteau prayer that the Court may issue any writ, order or direction which the Court may deem fit and proper in the facts and circumstances, cannot be invoked in this case nor granted. The petitioners are always at liberty to seek their civil rights for damages against the State in case it is so advised and if law supports them.

11. As a result of the foregoing discussion, there is neither life nor merit found in these petitions and the same are ordered to be dismissed but without any order as to costs. However, in case remedy is sought before some other forum, this order will not be read as an expression of opinion of this

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Court on the points in issue. It is made clear that if issue re: damages is pressed in civil court etc. such consideration will be without prejudice to any contention relating to limitation or delay and laches.

[RAJIV NARAIN RAINA]
JUDGE

11.04.2016
Vimal