

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

Date of decision: 14.03.2016

CWP No.1949 of 2015

Rajneesh Kumar

...Petitioner

Vs.

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

None for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

Two Law Officers deputed to this Court by the Advocate General, Punjab namely Mr. Vaibhav Sharma, DAG, Punjab and Mr. Inqulab Nagpal, AAG, Punjab plead no instructions.

When notice of motion was issued in this case on 6th February, 2015, an interim order was passed that one post be kept reserved for the petitioner. When this matter came up on 19th December, 2015, the Court passed the following order in the presence of the law officer representing the State of Punjab:

“The written statement has not been filed despite long passage of time. Last opportunity is granted to the State to file a reply, failing which, his defence would be struck off and the case is decided on merits on the available material.

Adjourned to 14.03.2016.”

No reply has been filed despite long adjournment granted from 19th December, 2015 to 14th March, 2016 in anticipation of a return. However, last opportunity to file written statement was not availed by the State and they had been warned that in case there is failure to do so, the defence of the State would be struck off and the case will be decided on the available material. Applying the principle of non-traverse of the averments made by the petitioner in the writ petition, I accept the same to be true and correct.

Briefly put, the petitioner applied for the post of Training Officer (Mechanic Diesel Trade) in the Department of Technical Education and Industrial Training, Punjab. The advertisement was issued on 22nd May, 2014 (Annex P-1). The petitioner applied and competed on merit for the post in open competitive selection. As per result uploaded on the official website of the department (Annex P-5), the petitioner is the topper. He has secured the first position in merit, but was denied appointment only for the reason that the Department changed the dates of counseling and did not notify them in public domain and therefore the petitioner could not appear in the counseling for lack of knowledge of date of counseling.

Aggrieved by non-consideration of his candidature and want of offering appointment to him, the petitioner brought his grievance to the notice of the respondents through a series of representations attached as Annex P-6 (colly). The first one was dated 29th January, 2015. Since the representations fell on deaf ears, the petitioner approached this Court for relief.

Since one post has been kept reserved for the petitioner and the petitioner is at number one of the merit list, this writ petition is allowed. A direction is issued to the respondents to offer the petitioner appointment to the post of Training Officer (Mechanic Diesel Trade). Let the exercise be done within 30 days from the date of receipt of certified copy of this order. In the

event of appointment, the necessary formalities such as character verification, background check and medical fitness should be completed without delay. Needless to say the seniority of the petitioner in the cadre on joining will be fixed as per merit in the batch.

[RAJIV NARAIN RAINA]
JUDGE

14.03.2016
Vimal