

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.20040 of 2016(O&M)

Date of Decision:-06.10.2016

Dr. Navjot Kaur.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Madhav Pokhrel, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner has preferred instant writ petition seeking quashing and setting aside of selection/appointment of private respondent nos.3-Mandeep Singh & respondent no.4-Meharul Nisa who are stated to have been appointed as Ayurvedic Medical Officer against Loco-Motor Disability (Ortho) in excess of the advertised quota. Further prayer has been made for appointing the petitioner as Ayurvedic Medical Officer in Disabled (Visually Impaired) Category as against the (04) four posts earmarked for the “Visually Impaired” category.

In brief the facts of the case are that seven (03 plus 04 backlog) posts under the Physically Disabled Quota were adverted in June 2010 (P-4). As per the merit list of handicapped category eventually finalized in July 2013 Annexure P-8, the petitioner concededly obtained 34.25 marks whereas the last (7th) candidate secured 36 marks. The seven selected candidates were concededly offered appointment in August 2013. The grievance of the petitioner is that there are sub categories under the Physically Disabled quota i.e. Visually Impaired plus Orthopedics plus Deaf and Dumb and the 07 appointments were not made in the ratio of

1:1:1. Still further as per the information supplied as per memo dated 5.8.2014 (P-13) since the post of Ayurvedic Medical Officer was not identified for "Hearing Impairment" the 07 posts had to be apportioned in the ratio of 50:50 between the visually impaired and Physically Disabled. It is averred that if the ratio had been followed then the petitioner would fall within the zone of appointment as physically handicapped.

Learned Counsel for the petitioner has vehemently argued that after the issuance of the advertisement in June 2010 (P-4) and subsequent selection of the candidates in July 2013 (P-9), on a representation being made by the petitioner, it was informed by the respondents vide memo dated 5.8.2014 (P-13) that the posts of Ayurvedic Medical Officer were not identified for the persons with "Hearing Impairment". Thus, it is submitted that the seven posts under the disabled category were required to be divided in the ratio of 50-50 and consequently, as per the roster point system, four posts were required to be reserved for visually impaired category and three for Loco-Motor Disability (Ortho) Category. However, the respondents have appointed only two persons of "Visually Impaired" category and five persons of "Loco Motor Disability (Ortho)" category have been appointed. Therefore, prayer has been made that appointment of respondent nos.3 & 4, who were last in the merit list under the Ortho category should be quashed and instead, the petitioner should be appointed, being meritorious and coming within the selection zone.

After hearing learned counsel for the petitioner, and perusing the paper book, this Court is of the opinion that present petition is without merit and liable to be dismissed.

In case the petitioner was aggrieved against the roster point system or was unsure as to how the number of posts advertised are to be bifurcated under the disabled category then, the petitioner was required to approach the respondents and should have sought clarification at the initial instance itself in July/August 2013 when the candidates were appointed. After having participated in the selection process and not been able to come within the selection zone, the petitioner cannot be permitted to now turn around and challenge the appointment of respondent no.3 & 4 at a belated stage. The plea that it was after representing to the department concerned, petitioner came to know about wrong induction of candidates in Ortho

category, does not appeal to the conscious of this Court, especially at this stage when much water has flown through and it is after a considerable delay of three years that the petitioner is coming forward to challenge the appointment of respondent nos.3 & 4. Thus on grounds of delay and laches, petition must fail.

Even otherwise, in case the petitioner was aggrieved against the classification/bifurcation of handicapped category post, he was required to challenge the advertisement itself and not the appointment of respondents nos.3 & 4 only. Hence seen from any angle, no case for interference is made out.

Dismissed.

(JASWANT SINGH)
JUDGE

October 06, 2016

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>