

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

CWP No.24361 of 2013 (O&M)

Date of decision:29.08.2016

Surender Singh

... Petitioner

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. M.S. Sindhu, Advocate for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

...

TEJINDER SINGH DHINDSA, J.

A Notification dated 16.09.2013 (Annexure P-1) was issued from the office of Chief Secretary, State of Haryana notifying 20 posts of Haryana Civil Services (Executive Branch) to be filled up through a special recruitment from the members of Group 'B' and 'C' services.

Petitioner is stated to have joined the Directorate of Education in the year 1989 as Steno Typist and thereafter has served in the department on the post of Technology Officer i.e. a supervisory group 'B' post.

The instant petition was instituted in the year 2013 assailing the action of the State Government in denying to him consideration under the process of special recruitment only on the ground that his ACR for the year 2006-07 is not counter-signed by the Competent Authority. Such rejection on the ground noticed hereinabove is apparent from the document placed on record and appended as Annexure P-6. In the report for the year 2006-07, the petitioner otherwise has been graded as A+.

Upon notice of motion having been issued, the stand taken in the written statement filed on behalf of the State is that the petitioner was

not eligible to be considered for being recommended to the HCS (Executive Branch) by way of special recruitment as he was holding a technical post of Technology Officer.

During the course of resumed hearing today, learned State counsel has produced a copy of Notification dated 09.02.2015 issued by the Chief Secretary to Government of Haryana and as per which the earlier Notification dated 16.09.2013 has been withdrawn. Copy of such Notification is taken on record as Annexure 'A'. State counsel submits that since by virtue of issuance of Notification dated 09.02.2015, the process of special recruitment itself stands scrapped, nothing would survive in the instant petition.

A copy of the Notification dated 09.02.2015 at Annexure 'A' has also been furnished to the counsel for the petitioner and who does not dispute the contents thereof.

In the light of such development, the instant writ petition has been rendered infructuous.

However, there is one aspect that would require to be dealt with.

In the written statement, document at Annexure P-6 as also contents thereof, are not denied. Insofar as the present petitioner is concerned, his name appears at Sr. No.27 and in the remarks column, it stands specifically recited as follows:

“The ACR for the year 2006-07 is not counter-signed by the Competent Authority. Therefore, the case may be rejected.”

Undisputedly, the petitioner for the year 2006-07 has otherwise been graded to be A+. Merely, for the reason that such report has remained

without counter signatures of the Competent Authority, no fault can be attributed to the petitioner. It was this very ACR that had been used against the petitioner to deny him recommendation in the special recruitment to the Haryana Civil Services (Executive Branch). Even though, the Notification, whereby, special recruitment process had been initiated stands withdrawn, yet this Court cannot remain oblivious of a situation that may arise whereby in future also the same very ACR may be used to the detriment and prejudice of the petitioner.

Under such circumstances, while disposing of the instant petition as infructuous, respondent No.3 i.e. Director, Secondary Education, Haryana is directed to look into the matter as regards ACR for the period 2006-07 having not been counter-signed and thereafter to take a final view thereupon in accordance with law.

Disposed of.

29.08.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |