

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.877 of 2016

Date of decision: 15.1.2016

Dr. Amandeep Kaur

...Petitioner

Versus

Punjabi University, Patiala and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Gurbir Singh Sidhu, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of letter dated 25.5.2015 (Annexure P/3) whereby her application for appointment to the post of Principal has been rejected on the ground that she was found not eligible.

Respondent no.3-College is a non-Governmental college and had issued advertisement dated 6.5.2015 (Annexure P/1) to fill up the post of Principal. Counsel for the petitioner's argument is that the petitioner is fully qualified as per guidelines issued by the NCTE and therefore, the said rejection is not justified. The petitioner has no vested right of appointment irrespective of the fact that she may be fully eligible if the said respondent has found her not suitable.

A Division Bench of this Court in **Dr. Ashok Kumar Gupta Vs.Post-graduate Institute of Medical Education and Research & others 2004 (4) RSJ 1** held that there is no vested right in the applicant for appointment even if his name was recommended for the post by the Experts Committee.

Similar view was taken by another Division Bench of this Court in **Dhirinder Chopra Vs. State of Haryana and others 2014(2) Service Cases Today 725** which considered a case of a candidate who was seeking appointment to the post of Addl. District Judge and it was held that

wait list candidate did not get any vested right in the appointment and right would only arise in case some body below him in merit was appointed.

Similarly, the Apex Court in **Vijoy Kumar Pandey Vs. Arvind Kumar Rai and others (2013) 11 Supreme Court Cases 611** held in similar terms. Relevant paragraphs read as under:-

“13. We too have at hand a situation where no panel, as is envisaged under the provisions of the regulations, ever came into existence. That being so, the question of determining the life of the panel by excluding the period during which there was an interim stay in accordance with the order of Dipankar Datta, J. in its order dated 12th March, 2009 did not arise. It follows that the claim made by respondent-Arvind Kumar Rai for appointment on the basis of such a non-existent panel was untenable as the panel itself was still born. We need not burden this judgment by referring to the decisions of this Court in which this Court has repeatedly held that the preparation of a select list or a panel does not by itself entitle the candidate whose name figures in such a list/panel to seek an appointment or claim a mandamus. No vested right is created by the inclusion of the name of a candidate in any such panel which can for good and valid reasons be scrapped by the competent authority alongwith the entire process that culminated in the preparation of such a panel.

14. In [Shankarsan Dash v. Union of India](#), (1991) 3 SCC 47 a Constitution Bench of this Court was examining whether candidates declared successful in a selection process acquire an indefeasible right to get appointed against available vacancies. The contention that they do acquire such a right was repelled in the following words:

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted.” (emphasis supplied)

The above decision has been followed in a long line of subsequent decisions of this Court including those rendered in [Punjab State Electricity Board v. Malkiat Singh](#), (2005) 9 SCC 22; [State of Bihar & Ors. v. Secretariat Assistant Successful Examinees Union & Ors.](#), (1994) 1 SCC 126; [Director, SCTI for Medicine Science and Technology v. M. Pushkaran](#), (2007) 12 SCC 465; [Union of India v. Kali Dass Batish](#), (2006) 1 SCC 779 [which is a three Judge Bench decision].

15. [In Rakhi Ray & Ors. v. The High Court of Delhi](#), (2010) 2 SCC 637, a three-Judge Bench of this Court held:

“24. ... A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate....”

16. Following the decision in [Shankarsan Dass case \(supra\)](#), this Court in [State of Orissa & Anr. v. Rajkishore Nanda & Ors.](#), 2010 (6) SCALE 126 held:

“A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate.”

No fault can be found as such and no positive direction can be issued by way of mandamus for appointing the petitioner as Principal as it is settled principle that only a right of consideration is there but no right of appointment.

Accordingly, there is no scope for interference in exercise of jurisdiction under Article 226 of the Constitution of India. Hence the present writ petition is dismissed.

January 15, 2016
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(G.S.SANDHAWALIA)
Judge