

Sr. No.208

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

CWP No.13522 of 2015 (O&M)

Date of Decision:08.12.2017

Gurlal Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

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

Present:- Mr. D.S.Patwalia, Senior Advocate with
Mr. B.S.Patwalia, Advocate,
for the petitioners.

Mr. T.P.S.Chawla, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

The Directorate of Health & Family Welfare, Punjab issued public notice dated 26.07.2011 (Annexure P-1) for recruitment to various posts under the Health Department. 200 posts of Drivers were also advertised. The basic and professional qualifications for the post were also prescribed and which were matriculation and for a candidate to possess a licence for driving a heavy vehicle as also experience of driving Heavy Transport Vehicle for a minimum period of 05 years.

Pleadings on record would indicate that the petitioners herein applied for the post of Drivers and subjected themselves to a process of selection. A written examination was conducted and the result thereof was declared in May, 2012. In pursuance to the written examination as also a driving test having been

conducted, a provisional merit list was drawn in which names of the petitioners figure.

The instant petition has been filed raising a grievance that the selection process has not been finalized and recruitment in pursuance to the advertisement/public notice dated 26.07.2011 (Annexure P-1) qua the post of Drivers has not been made.

Prayer in the petition is for issuance of a writ of mandamus for directing the respondent authorities to issue a final merit list pertaining to the post of Drivers and based thereupon to issue appointment letters.

Upon notice having been issued, a joint written statement on behalf of respondent Nos.1 and 2 has been filed.

The stand taken on behalf of the State is that the Department of Finance has issued policy instructions dated 04.12.2014 and in terms of which keeping in view the financial position of the State, proposal for purchase of new vehicles cannot be accepted and accordingly it has been decided to make arrangement for new vehicles by hiring vehicles for official work from the market.

Learned Senior counsel representing the petitioners would join issue and would submit that the Department of Finance Instruction dated 04.12.2014 stands superseded inasmuch as the State Government has taken a decision in principle not to resort to outsourcing.

Having heard counsel for the parties at length, this Court is of the considered view that no interference in the matter is

warranted.

Even if a decision subsequent to the issuance of the Department of Finance Instruction dated 04.12.2014 has been taken not to resort to outsourcing, yet it would be within the domain of policy making as regards the requirement to recruit Drivers in view of the financial stringency faced by the State and as portrayed in the written statement.

There is no vested right with the petitioners to claim appointments merely on account of an advertisement having been issued to recruit a certain number of Drivers and the petitioners having applied and having participated in a process of selection.

Right of the petitioners was limited to a fair consideration for appointment. Intervention of this Court would only be justified if a case was made out that the State Government on account of certain oblique motive is not finalizing the process of recruitment to the post in question. No such case has been made out.

The stand taken on behalf of the State with regard to the weak financial position and there being no requirement to fill up the post of Drivers cannot be stated to be irrelevant and unjustified.

In the totality of the circumstances, the prayer of the petitioners to direct the respondent Department to issue a final merit list and to issue appointment letters cannot be accepted.

Petition, accordingly, is dismissed.

It is, however, clarified that in the eventuality of the

State Government taking a decision to re-advertise the post of Drivers in the respondent-Health and Family Welfare Department in the near future, the appropriate/competent authority would be obligated to look into the issue of age relaxation qua the present petitioners as for no fault of theirs they would have by then become overage.

Disposed of.

08.12.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No