

CWP No. 21309 of 2012

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

**CWP No. 21309 of 2012
Date of Decision: 27.10.2017**

Neena Gupta

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Kanwal Goyal, Advocate,
for the petitioner.

Mr. R.K. Doon, A.A.G., Haryana.

Mr. Ranjit Saini, Advocate,
for respondent no. 3.

AMOL RATTAN SINGH, J. (ORAL)

Pursuant to the order dated 03.10.2017, learned State counsel has filed in Court today an affidavit of Sh. Inder Jeet, Joint Transport Commissioner, Haryana, on behalf of respondent no. 4, in which it is stated that out of 27 sanctioned posts of Steno Typists, only 05 are filled up at present, with the remaining 22 lying vacant.

That being the position, and vide the communication Annexure P-9, dated 01.09.2010, the petitioners' application for appointment as a Steno Typist in the Transport Department, having been accepted, I see no reason why this writ petition should not be allowed for the reasons already stated in the order dated 03.10.2017.

The said order is being reproduced hereinbelow in *toto*:-

“By this petition, the petitioner seeks firstly that the adverse ACRs recorded against her for the years 2007-08 and 2008-09 (erroneously typed as 2005-06 in the prayer clause in the petition, as submitted by the counsel), be expunged, as the said

ACRS were never conveyed to her, and further, directions be issued to conduct an inquiry against respondent no.3, who is stated to have recorded the adverse remarks in the ACRs and finally, to direct the 4th respondent, i.e. the Transport Commissioner, to appoint the petitioner as a steno-typist in that department, pursuant to the letter dated 01.09.2010 (Annexure P-9).

As regards the adverse remarks recorded for the aforesaid two years, it is not denied even by the respondents that the said remarks were never conveyed to the petitioner as they should have been, till the year 2011.

However, thereafter also the petitioner not having represented for expunction of those remarks, it would be a moot point as to whether she can be allowed to represent at this stage also for such expunction, limitation for filing such a representation being one year, as could not be denied by learned counsel.

Be that as it may, Mr. Goyals' contention further is that 70% good ACRs are required in 10 years even for promotion and therefore, with the petitioner having 80% good reports between the years 2000 and 2010, she should not be ineligible to be appointed by transfer to the Transport Department.

It has further been stated that the petitioner having been transferred to a different office with respondent no.2, the ACR recorded for the period that she remained there, i.e. from 27.11.2008 to 31.03.2009, she has been recorded as 'outstanding'.

That being so, it is not understood as to why the petitioner would not be appointed in the Transport Department, especially as it is stated that the post that she is now working on, and all other posts in that office, have been treated to be a diminishing cadre, with the petitioner being the only person "working there", actually without work.

It is the specific contention of Mr. Goyal that even today, the post of a Steno-typist is available in the Department of Transport, which Mr. Doon, on the basis of the reply filed in the year 2013, submits that there is no such post.

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This Court is of the opinion that in the aforesaid circumstances, the petitioner having raised an allegation of malafides against respondent no.3 and her ACR within the same period having been recorded as outstanding by a different reporting authority, and she having 80% good reports between 2000 and 2010, there would no reason for not appointing her in the Transport Department in terms of the letter of offer, Annexure P- 9, provided of course that there is a post vacant to which she can be appointed.

Learned State counsel would consequently take instructions with regard to the availability of posts, and an affidavit of the competent authority, with regard to the number of posts of Steno-typists available in the department, be filed in Court by the next date of hearing.

Adjourned to 13.10.2017.”

In view of the above and the fact that 17 posts of Steno Typists are still lying vacant in the Department of Transport as of today, with the petitioners' application for appointment having been accepted earlier as already noticed, a direction is issued to respondent no. 4, i.e. the Transport Commissioner, Haryana, to give appointment to the petitioner in the said Department as a Steno Typist, the affidavit filed on behalf of the said respondent not stating anywhere that the posts are not required to be filled up.

The issue of granting benefits other than actual arrears of pay, from the time that her application for appointment as a Steno Typist in the said Department was accepted, will be decided by the Transport Commissioner upon a representation in that regard being made by the petitioner, within a period of three months from the date of presentation of such representation.

October 27, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.