

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

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**CWP-1168-2017 (O&M)
Date of decision: 24.01.2017**

Balwinder Singh

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has sought for a writ of mandamus directing the respondents to appoint the petitioner to one of the post of S.S. Master pursuant to the advertisement to the post S.S.Master (BCA Category). The respondents have notified vacancies for the S.S.Master for different categories on 13.08.2009. The select list was announced on 06.06.2012. The petitioner is stated to be in the waiting list in the BCA Category. The respondents have issued offer of appointment to the Selected candidates whose name were reflected in the main list on 08.11.2012. Some of the selected and appointed candidates have not reported for duty under BCA category prior to 23.11.2012. Consequently, the respondents have failed to operate the select list announced on 06.06.2012. As on 24.11.2012, the date on which candidates under BCA

category have not reported for duty, thus for filling up of those post, waiting list was required to be operated.

2. Learned counsel for the petitioner submitted that he had submitted representation to the respondents. The same was not considered. On the other hand, he relied on order dated 12.08.2014 vide Annexure P9 by which the respondents have proposed to cancel the order of appointment issued to certain appointees due to non-reporting. Thus, it is evident that the respondents are yet to complete the process of selection as on 12.08.2014. In other words, further time has been granted to the selected and appointed candidates for their reporting, which is evident that vacancy under BCA category is available. Hence petitioner is entitled for consideration of his name under BCA category for the post of S.S. Master against one of the vacancy with reference to non-reporting of a candidate under BCA category. The petitioner further submits that he had earlier approached this court in the year 2015 and filed writ petition. The same was under office objection. Objection of the Registry could not be rectified and re-filed due to misplacing of file. Hence he has filed the present petition stating that petition is being again re-filed so as to condone or ignore issue of delay in approaching this court.

3. Petitioner had cause of action in the month of November, 2012 as and when persons who were selected and appointed have reported for duty and so also some of them have not reported for duty. So as to operate the waiting list, for the first time he had approached this court in the year 2015 and the petition was presented on 29.05.2015 vide diary No. 1385737. The

Registry had raised objection on 30.05.2015. Petitioner has failed to rectify the objection and re-filed on the score that petition was misplaced. Once the writ petition is filed in the court, it is record of the court. The petitioner cannot simply say that it is misplaced. On that count, the petitioner cannot refile a writ petition. No efforts have been made to search the misplaced file so as to contend that it is misplaced. Further he has failed to inform the registry of this court regarding misplace of file. Having regard to the conduct of the petitioner in respect of filing writ petition and not rectifying the objections and re-submitting the same and further there is delay and latches on the part of the petitioner, since cause of action accrues to the petitioner way back in the month of November, 2012 and the present petition has been presented in the year 2017. Assuming that cause of action accrued with reference to the order dated 12.08.2014. If the cause of action dated 12.08.2014 is taken into consideration the waiting list which was notified on 06.06.2012 had lapsed on 06.06.2013. Thus, petitioner has not made out a case.

4. CWP stands dismissed.

24.01.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No