

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

CWP No. 18029 of 2015 (O&M)

Date of decision: January 27, 2017

Mandeep Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Manoj Kakkar, Advocate,
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under articles 226 of the Constitution of India for the issuance of a writ in the nature of mandamus for directing the respondent No. 2 to declare the result of the petitioner for the post of Cutting and Tailoring instructor under Backward class category pursuant to advertisement issued .

2. In brief the facts are, that respondent No. 2 Director Technical Education And Industrial Training Punjab advertised 59 posts of Cutting and Tailoring Instructor, vide advertisement dated 2.3. 2013. The petitioner herein having the necessary qualification as per the advertisement, applied for the post of Cutting and Tailoring Instructor under the Backward Category and thereafter appeared for the written examination which was fixed for 14.7.2013. After the written test had been conducted, a public

notice was issued for counseling and 3 times number of candidates for 6 posts of Cutting and Tailoring Instructor under the Backward class category were called for interview to be held on 14.7.2013. Six candidates were selected for the said post and candidates mentioned at serial No. 1 and 2 in the BC category were also selected in the general category therefore appointment letters were issued to 4 candidates on 15.05.2015. The second counseling was called for to fill up the 2 vacant posts in the Backward class category and the interviews were held on the on 12.06.2015 . A list of 18 candidates of BC category were called and the name of the petitioner was reflected at serial No. 9 of the said list . Aggrieved against the action of the respondent State in not declaring the result, the instant writ petition has been preferred.

3. The learned counsel appearing on behalf of the petitioner submits that once an advertisement has been issued and persons have been invited for an interview, it becomes incumbent upon the respondent State to complete the selection process. In the instant case, the petitioner and others were called for 2nd counseling and after conducting the interview the result has not been declared.

4. Per contra learned counsel appearing on behalf of the respondent State submits that pursuant to the Department advertisement dated 01.03.2013, 216 posts of Craft Instructors were to be filled. A written test was conducted in July 2013 and a tentative merit list of 3 times of the advertised posts, in each trade, was displayed on the website on 11.09.2013. The name of the petitioner did not fall in the said merit list as she was lower in merit. After the tentative merit list was prepared, the candidates

mentioned at serial number 07, 08, 20, 10, 12, 17 and 19 were found eligible and as such they were issued appointment letters with the last selected candidate of Backward class category mentioned at serial No. 19 securing 51 marks, whereas the petitioner secured only 48 marks. Thereafter candidates falling in 3 to 5 times merit of advertised posts were called for scrutiny of their respective documents/certificates. In the meanwhile, the government of Punjab in larger public interest took a decision on 19.08.2015 to fill the remaining vacant posts by a fresh advertisement so that other meritorious candidates could get a chance to apply. It is also urged that the petitioner did not have the necessary marks to be called for interview in the 1st list that was published.

5. I have heard both the learned counsel for the parties and with their assistance have gone through the record of the case.

6. The grievance of the petitioner herein is to the denial of appointment to the post of Cutting and Tailoring instructor. The petitioner had applied for the said post and was not successful in securing merit position in the first instance. It is in the 2nd counseling that petitioner and others were called for an interview to be held on 12th July 2015. However, a decision was taken thereafter to fill in the vacant posts by inviting fresh advertisement. There is nothing on the record to show that the respondents have appointed anyone to the two vacant posts having lower merit than the petitioner herein subsequent to the decision taken by the respondent to advertise the posts afresh. The petitioner at best is entitled to consideration for appointment in case she has a necessary qualification, but no right as such accrues to her for appointment by praying for a writ in the nature of

mandamus to fill in the vacant post. Normally, under service jurisprudence it is the discretion with the employer to fill in the number of vacancies and no mandamus can be issued to the State to fill up all the vacancies.

7. In the instant case the petitioner was not one of the candidates falling within 3 times merit of the advertised posts. The petitioner herein has not challenged the decision taken by the Department wherein it was proposed to fill the vacancies by a fresh advertisement and give a chance to meritorious candidates. The apprehension of the petitioner that the respondent Department is filling up posts by proposing to call candidates who are ineligible seems to be ill founded, in view of the decision taken by the Department to invite applications afresh by an advertisement. The petitioner is always at liberty to face the process of selection as and when the said advertisement is issued.

8. Therefore, in view of the above, this court is of the opinion that the writ petition is devoid of any merit and is hereby dismissed as such.

January 27, 2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No