

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

CWP No.19043 of 2014 (O&M)

Date of Decision: 10.03.2017

Sanjeev Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H.C. Arora, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

Petitioner seeks appointment to the post of Vocational Master (General Receptionist) with retrospective effect i.e. from 14.01.2012 with all consequential benefits.

2. Pursuant to an advertisement that was issued dated 23.09.2009 for appointment of 7654 teachers, the petitioner applied against the reserved category SC (R&C). The petitioner appeared in the counselling and was placed at serial No.1 on the waiting list of SC category. It is contended that the petitioner being at serial No. 1 on the waiting-list, was entitled to be issued appointment letter in case, any vacancies of vocational master (General Receptionist) remained un-consumed.

3. Learned counsel appearing on behalf of the petitioner contends that in a similar matter, pertaining to the same advertisement dated 23.09.2009, titled as '***Venus Versus State Of Punjab And Another***', Civil Writ Petition No. 20148 Of 2012, a direction has been issued to appoint persons on the waiting-list, which judgment has been affirmed up to the Hon'ble Supreme Court. It was held that once posts which had been duly advertised has not been consumed, then the candidate next in order of merit, as determined in a regular process of selection, if available, has to be invited for filling up such vacancy.

4. Per contra, learned counsel appearing on behalf of the State would submit that the petitioner herein has no right to seek appointment merely on the ground that he was at serial No.1 on the waiting list. It is submitted that the similar issue came up for hearing and matter stands settled by a judgment rendered in '***Sukhvinder Singh and Others versus State of Punjab and Others***', Civil Writ Petition No. 6031 of 2014, wherein the petitioners also sought appointment by placing reliance upon a judgment rendered in '***Venus Versus State Of Punjab And Another***' (*supra*), the learned Single Bench by noting the judgment rendered in '***Venus Versus State Of Punjab And Another***' (*supra*) came to hold that the candidate whose name appears in the merit list cannot have an indefeasible right of appointment and the State is under no obligation to fill up the vacancies. This judgment came to be rendered in view of the fact that a decision had been taken to scrap the waiting-list on 09.08.2013. The judgment rendered in '***Venus Versus State Of Punjab And Another***' (*supra*) was distinguished on the ground that the petitioner Sukhvinder and others had approached this

court only after the judgment had been rendered in the case of ***Venus Versus State Of Punjab And Another*** (*supra*) and that too after the decision had been taken to scrap the waiting list.

5. In the instant case, the petitioner herein has approached this court seeking appointment on the post of Vocational Master, pursuant to an advertisement issued in the year 2009, seeking a direction that the waiting list be operated in his favour, since he was at serial No.1 on the waiting list. The waiting list has already been scrapped as far back as on 09/08/2013 and therefore, the petitioner being a fence sitter, not approaching this court in time, would not be entitled to seek the relief as claimed, as has been held in '***Sukhvinder Singh and Others versus State of Punjab and Others***' (*supra*). The ratio of the aforesaid judgment is fully applicable to the facts of the instant case.

6. Resultantly the above noted writ petition being devoid of any merit is hereby dismissed.

March 10, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No