

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-18935-2015(O&M)

Date of decision : 08.09.2017

Varsha Rani

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.R.K.Malik, Senior Advocate
with Mr.Kuldeep Sheoran, Advocate
for the petitioner.

Mr. R.K.Doan, AAG, Haryana.

AMOL RATTAN SINGH, J.(ORAL)

Learned senior counsel appearing for the petitioner submits that the petitioner having been placed at no.1 on the waiting list after the selection process for the post of Supervisor (Female) in the respondent Woman & Child Development Department, Haryana, was completed, on recommendations made by the respondent Commission on 02.09.2014, as admitted by respondents in their reply, she was entitled to be appointed in place of the first selected candidate, Meena Rani, who had refused to accept the appointment vide a letter written by her on 14.05.2015, a copy of which is Annexure P-4, which is also not denied by the respondents.

The reasoning given by the respondents for refusing appointment to the petitioner, is that on 28.10.2014, the Chief Secretary to the Government of Haryana had issued instructions that all appointments and recruitments be put on hold with immediate effect. Though the reason for

that is not given in the reply, however it is the common case of both sides

that the said instructions were issued in view of the notification issued by the Election Commission of India, notifying general elections to be held in Haryana, in the year 2014.

Thereafter, upon a clarification having been sought by the Commission from the Chief Secretary, the latter vide his letter dated 26.08.2015, clarified that the ban imposed vide the letter dated 28.10.2014 had been withdrawn vide the letter dated 24.09.2015 and as such, appointments could be made in terms of the selection earlier carried out.

Consequently, the second selected candidate, i.e. one Anju, was offered appointment on 01.09.2015, by which date the validity of the waiting list is contended to have expired.

Firstly, even looking at the fact that the recommendations admittedly were made by the HSSC on 02.09.2014, the validity of the waiting list continued till the end of 01.09.2015, i.e. till 12 o'clock mid night, of that date, which is also the date on which an appointment letter was issued to the second selected candidate on the merit list, i.e. Anju. Thus, the petitioner should also have been offered an appointment, she being at no.1 on the waiting list, with the aforesaid Meena Rani having refused to accept the appointment.

Other than that, the selection process having been put on hold by the respondent Government between 28.10.2014 till 29.04.2015, the said period would necessarily have to be excluded for counting the period of validity of the waiting list, especially as appointments as regards the selection process itself were made after 29.04.2015.

Consequently, this petition is allowed and the respondents are directed to issue an appointment letter to the petitioner if she is not

otherwise barred for such appointment (other than for the reason that the validity of the waiting list had allegedly expired, which as held had not expired on 01.09.2015).

She would also be entitled to all consequential benefits w.e.f. 01.09.2015, i.e. the date on which an appointment letter was issued to the aforesaid Anju, except actual arrears of pay. The petitioner is also entitled to costs of Rs.3000/-, the respondents having wrongly stated that the validity of the waiting list had expired, even though it was valid at least till the date that the aforesaid Anju was offered an appointment.

(AMOL RATTAN SINGH)
JUDGE

September 08, 2017.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No