

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

109+257

**CM No.462 of 2017 in/and
CWP No.18 of 2017
Date of Decision : 19.01.2017**

Rajiv Kalaria and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Shalender Mohan, Advocate
for the applicants-petitioners.

Ms. Shruti Jain Goyal, A.A.G., Haryana
for respondents No.1 and 2.

Mr. H.N. Mehtani, Advocate
for the respondent No.3.

AJAY TEWARI, J. (Oral)

CM-462-2017

For the reasons recorded, the application is allowed.

Replication to the written statement filed by respondents No.1 and 2 is
taken on record.

CWP-18-2017

By this petition the petitioner has challenged the

advertisement dated 22.12.2016 (Annexure P-6) issued by respondent No.2 as per which the Department of Husbandry and Dairying in Haryana claiming that it intends to recruit 280 Veterinary Surgeons purely on Contractual basis for a period of one year or till the posts are filled by candidates selected by Haryana Public Service Commission, whichever is earlier.

On 06.01.2017 the following order had been passed:-

“Vide advertisement dated 28.04.2014, the Haryana Public Service Commission invited applications for recruitment to 123 temporary posts of Veterinary Surgeon (HVS-II) in Animal Husbandry & Dairying Department, Haryana, which is a Class-B post. Vide further advertisement dated 17.11.2015, Haryana Public Service Commission invited online applications for recruitment to 225 temporary posts in the same department. As per note 2, the candidates, who had applied in response to the earlier advertisement were not required to apply again. Thereafter, vide corrigendum dated 10.08.2016, the number of posts were increased from 225 to 246. As per the advertisement dated 17.11.2015, the selection process included written examination followed by interview.

The petitioners have applied in response to the said advertisement. It is their case that till date no written examination has been conducted.

Vide public notice dated 22.12.2016, the Department

of Animal Husbandry & Dairying, Haryana intimated that it intends to recruit 280 Veterinary Surgeon purely on contractual basis for a period of one year or till regular candidates duly selected by Haryana Public Service Commission are available for appointment, whichever is earlier. As per this notice, the recruitment of Veterinary Surgeon will be done as per outsourcing policy of Haryana Government.

The application forms were to be submitted till 04.01.2017. Interview, if required, will be conducted on 06.01.2017. Learned counsel states that appointments are likely to be made immediately thereafter. He argues that the undue haste in making these contractual appointments while not making the regular appointments smacks of malafide.

Learned counsel further argues that as per Part-II of the outsourcing policy (Annexure P-7), it is envisaged that in emergent cases involving public interest, where the sanctioned vacant posts of Group C and D categories exist, the person(s) can be engaged by sending requisition to the Employment Exchange and by advertisement in the newspapers, purely on contract basis. He argues that as per this policy, no appointment on contract basis can be made where sanctioned vacant posts of Group A and B are available. As the post of Veterinary Surgeon is a group-B post and sanctioned vacant posts are available as is evidenced by the advertisement issued by HPSC, no contractual appointment can be made to these posts.

Notice of motion for 12.01.2017.

Ms. Kirti Singh, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondents.

Meanwhile, interview may go on but the appointment letters be not issued, til the next date.

Copy of this order be given to learned counsel for the State under the signatures of the Special Secretary of this Court.”

The learned Assistant Advocate General has informed the Court that the delay in finalizing the regular recruitment by the Haryana Public Service Commission is due to the fact that the Commission has sought advice on the syllabus for the written examination since the posts are highly technical in nature and on the other hand in view of the acute shortage of Veterinary Surgeons the large livestock economy of Haryana is being severally prejudiced. She has also informed that pursuant to the Public Notice the petitioners have also applied and have also been interviewed.

The apprehension voiced by the learned counsel for the petitioners is that in fact this is a conspiracy with a larger design and once contractual appointments are made the process for making regular appointment would loose all steam. However, it has been accepted that the issue of filling up the posts on regular basis has to be decided by the

Haryana Public Service Commission and therefore the State of Haryana has no control over the same. Consequently, the argument that it is some part of some larger design does not seem to be justified.

Coming to the legality of the matter, the argument that contractual/outsourcing recruitment is possible only for Grade 'C' & 'D' posts is also not correct. The policy for outsourcing of services/activities has been annexed as Annexure P-7. Part-I deals with policy for outsourcing those Services/Activities where there are no regular sanctioned posts while Part-II deals with engagement of persons on contract basis where regular posts exist. Part-II contain 7 sub-clauses. Sub-clause (i) talks of a situation where though there are sanctioned vacant posts of Group 'C' and 'D' yet in emergent cases involving public interest recourse may be had to the expedient of contractual appointment/outsourcing. Sub-clause (ii) to (vi) deal with other modalities of these appointments. Sub-clause (vii) deals with a different class of posts i.e. 'posts of highly technical and professional nature of any category'. The contention of learned counsel for the petitioners that Sub-clause (i) would be the dominant clause and the expression 'of any category' mentioned in Sub-clause (vii) would have to take colour from Sub-clause (i) is not correct. A reading of the entire Part-II clearly shows

expression 'of any category' would mean posts of highly technical and professional nature across Group 'A', 'B', 'C' and 'D'.

In this view of the matter, I find no merit in the present petition. Consequently, the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 19, 2017
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No