

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

[1] Civil Writ Petition No.23300 of 2015.
Date of Decision: January 17, 2017

Union of India and othersPetitioners

versus

Rajbir and anotherRespondents

[2] Civil Writ Petition No.24217 of 2015.
Date of Decision: January 17, 2017

Union of India and othersPetitioners

versus

Ashok Kumar and anotherRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Namit Kumar, Advocate, for the petitioners
Mr.Rajesh Khandewal, Advocate,
for respondent No.1 in CWP No.23300 of 2015
Mr.Aman Chaudhary, Advocate,
for respondent No.1 in CWP No.24217 of 2015

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

This order shall dispose of CWP Nos.23300 and 24217 of 2015
as common questions of law and facts are involved in both these cases.

For brevity, the facts are being extracted from CWP No.23300
of 2015.

The petitioners advertised 16 posts of Postman/Mail Guard on
24.11.2013 for recruitment in Haryana Circle. 1st respondent applied and
competed for the advertised posts. On completion of selection process, 16
candidates in order of merit were offered appointment. Four of them

admittedly did not join. The 1st respondent was the next candidate in the

merit list. Consequently, the Superintendent of Post Offices, Ambala Division, Ambala offered him provisional appointment vide letter dated 04.08.2014.

[2] The said appointment was however cancelled by the Superintendent of Post Offices on the directions of Chief Post Master General, Haryana Circle. The aggrieved respondent approached the Tribunal who has vide order dated 18.08.2015 set-aside the cancellation order and restored the appointment of 1st respondent.

[3] We have heard learned counsel for the parties and gone through the record.

[4] The only plea taken before this Court is that no 'waiting list' was prepared at the time of selection, hence the 1st respondent could not seek appointment as a matter of right.

[5] The plea taken by the petitioners appears to contrary to record. In para No.7 of the written statement filed before the Tribunal, the petitioners have taken the following stand:-

“... 7. That there is a provision of preparation of waiting list in some of the direct recruitment examination as some of the candidates after selection may deny the offer of appointment and the vacancies against them may remain unfilled. The names of the candidates in the waiting list shall not be announced. It was decided by the Chief PMG on the same analogy to prepare a category wise waiting list equal to number of vacancies notified in each category with the stipulation that waiting list so prepared can only be utilized with the prior approval of the Chief PMG. The

matter of preparation of waiting list was referred to the Postal Directorate that whether the waiting list is to be utilized or not. The guidance in the matter has not been received and notification dated 28.12.2014 to fill up the vacancies for the year 2014 has been issued. Hence, the letter seeking guidance became null.....”

(emphasis applied)

[6] It is thus apparent that later on a waiting list equal to the number of vacancies was prepared. It is not the case of petitioner-authorities that as per such waiting list, the 1st respondent is not entitled to seek appointment against four unfilled vacancies.

[7] It may be true that mere selection does not confer right to appointment but denial of appointment by a public authority must always be supported with fair, valid and just reasons. It is an admitted fact that 16 posts were advertised and four candidates higher in merit did not come forward to join the offered appointment. That being so and when 16 candidates were required to be appointed, the denial of appointment to the next four candidates on order of merit is totally illogical. The Superintendent of Post Offices had rightly offered appointment to the 1st respondent but we failed to understand as to what prompted the Chief Post Master General, Haryana to intervene and cancel the appointment offered to 1st respondent. No reason whatsoever in support of such unilateral action has been brought on record. His action was totally uncalled for.

[8] There is no gain saying that every selection process is a burden on State exchequer. The Competent Authority can take a conscious decision not to fill up the advertised posts. However, in the instant case the

Competent Authority actually wanted to fill up all the advertised posts for which selection process was initiated. It is also not the case of petitioner-authorities that there was any minimum bench-mark to offer appointment or that the 1st respondent did not fulfill it. Denial of appointment to 1st respondent thus was totally for invalid or alien reasons. It has rightly been interfered with by the Tribunal in favour of 1st respondent.

[9] No case to interfere with the order under challenge is made out.

[10] Dismissed.

[SURYA KANT]
JUDGE

January 17, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No