

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

**CWP-27997-2013 (O&M)
Date of decision:08.08.2017**

Narinder Kaur

... Petitioner

Vs.

State of Punjab & another

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Gaurav Sharma, Advocate for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

The instant writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus for directing the official respondents to appoint the petitioner on the post of Horticulture Development Officer.

Facts of the case are in a very narrow compass.

The Registrar, Punjab Agricultural University, Ludhiana issued an advertisement dated 06.07.2013 (Annexure P-1) on behalf of the Department of Horticulture, State of Punjab inviting applications for recruitment to various posts including 45 posts of Horticulture Development Officers. 22 posts were earmarked to be filled up from the general category.

Petitioner belongs to the general category and possesses the qualifications of B.Sc. Agriculture. Stating herself to be eligible for the post in question, petitioner submitted her application and participated in the process of selection which comprised of a written examination held on

18.08.2013. Result of the written examination was declared and in which as per marks secured, petitioner was placed at serial rank No.28.

The entire case set up on behalf of the petitioner is that 6 candidates, who had secured a higher ranking than the petitioner were not even eligible to be considered for appointment. In this regard, counsel submits that Manish Narula, who was serial rank No.1 in the merit list was overage as per the age stipulation contained in the advertisement. Sukhpal Singh, who was at serial rank No.5 had not even cleared the qualification of M.Sc. and thus, has been wrongly awarded marks for such higher qualification. 4 other candidates are stated to be not residents of the State of Punjab and in spite thereof, were considered eligible. In such regard, counsel submits that after issuance of advertisement, a corrigendum dated 09.07.2013 had been issued and in terms of which a condition was imposed that domicile certificate regarding residence of State of Punjab is also required for the post of Horticulture Development Officers. It is submitted that the petitioner fulfills such condition being a resident of the State of Punjab. Precise argument raised is that if the aforementioned 6 candidates are excluded from the final merit list, petitioner who has been ranked at serial number 28 would climb up to serial No.22 and as such would be vested with a right to be appointed against one of the 22 posts of Horticulture Development Officers to be filled up from amongst the general category candidates.

Per contra, Mr. Avinit Avasthi, learned AAG, Punjab has clarified the position by advertizing to the contents of the written statement and to which no replication has been filed.

It has been explained that Manish Narula was working on the

post of Agricultural Sub Inspector in the Department of Horticulture and had applied through proper channel and as such, he being an in service candidate was eligible for relaxation in the upper age limit in the light of relevant government instructions and which relaxation has rightfully been accorded to him. Insofar as Sukhpal Singh, merit rank No.5 is concerned, he is stated to be possessing the qualification of M.Sc. Insofar as the four candidates, who were not residents of the State of Punjab, learned State counsel would advert to the judgment dated 09.05.2014 passed by a Coordinate Bench of this Court in **CWP No.24097 of 2013 (Vaishali Versus State of Punjab & another)** and wherein the very stipulation vide corrigendum dated 09.07.2013 imposing the condition of Punjab domicile had been struck down.

What clearly transpires in the light of the facts noticed herein above is that the petitioner remains at ranking serial No.28. The advertised posts of Horticulture Development Officers for the general category were 22 in number.

Under such circumstances, no exception can be taken to the action of the respondent/authorities in having denied to the petitioner appointment to the post in question.

At this stage and as a matter of last resort, counsel representing the petitioner would refer to the averments made in CM No.11332 of 2015 to contend that a number of posts are lying vacant on account of non joining/resigning by the candidates who were selected and appointed and as such, it is imperative for the respondent/authorities to offer to the candidate next in order of merit the post in question.

Even such miscellaneous application has been responded to by

way of filing of a counter affidavit of the Director, Horticulture Department Punjab. A tabulation has been furnished in para 5 of such counter affidavit and where from there is only one candidate, namely, Dimpi Raina, who had secured merit serial No.21 belonging to the general category and who is stated to have not been appointed on account of his selection in Punjab Agricultural University, Ludhiana.

Assuming for a moment in the petitioner's favour that Dimpi Raina had not joined on the post at all and such post having not been consumed, at best a right would accrue to the candidate who has secured rank number 23. Petitioner, who is at ranking No.28 can still not be accommodated.

For the reasons recorded above, there is no merit in the writ petition and the same is, accordingly, dismissed.

08.08.2017*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |