

**CWP No. 25121 of 2015(O&M)
Date of Decision: 03.05.2017**

Kuldeep Petitioner

Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE P. B. BAJANTHRI

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

Mr. Hitesh Pandit, Addl. A.G., Haryana.

P. B. BAJANTHRI J. (ORAL)

In the instant petition, the petitioner has sought for direction to the respondents No.1 to 3 to consider the petitioner's name for the post of Mali pursuant to his placement in the waiting list at Sr. No.2 with reference to unfilled ESM (General) category posts read with notifications dated 02.07.2010 (Annexure P-3) and 23.05.2014 (Annexure P-4) respectively.

The respondents have advertised the posts of Group D including Mali on 19.08.2013. Undisputedly, the petitioner has been considered as a candidate for the post of Mali and he has been placed in the waiting list at Sr. No.2. On 03.07.2014, the selection list was notified at Anneuxre P-2. It is also undisputed that six posts for ESM (General) category earmarked for Mali has not been filled-up for want of candidates.

In view of these facts and circumstances, the petitioner is entitled for selection and appointment to unfilled vacancy earmarked for the ESM (General) category while operating the waiting list.

On 03.07.2014, results were announced including the waiting list. Waiting list would be in operation for a period of one year i.e. up to 02.07.2015. The petitioner had submitted a representation on 11.03.2015 (Annexure P-5) to operate the waiting list with reference to the fact that six posts for the ESM (General) category were not filled up. In support of the said contention, learned counsel for the petitioner relied on Annexures P-3 and P-4, by which the selection authority to operate the ESM quota. If there are no candidates, the same shall be filled up by the respective category. In the present case, six posts for the ESM (General) category earmarked have not been filled up. Consequently, the petitioner, who is in the waiting list in the general category at Sr. No.2, is entitled to consideration for filling-up of the posts earmarked for the ESM (General) category-unfilled.

Per contra learned counsel for the respondent-State submitted that waiting list is not in operation for the reasons that one year has lapsed. Consequently, the petitioner is not entitled for the relief sought in the present a petition. Moreover, Annexure P-4 dated 23.05.2014, is not applicable for the present petition.

Heard, learned counsel for the parties.

Having regard to the dates and events like date of final result notified on 03.07.2014, the petitioner's name is in the waiting list at Sr. No.2. Waiting list would be in operation for a period of one year i.e. 03.07.2014 to 02.07.2015 and the fact that the petitioner has submitted a representation on 11.03.2015 much prior to completion of one year from the date of issuance of final result on 03.07.2014. Therefore, as on date of submission of representation by the petitioner on 11.03.2014, waiting list could have been operated with reference to Annexures P-3 and P-4. Hence,

the concerned respondents are hereby directed to consider the petitioner's name for selection and appointment for the post of Mali against one of the unfilled vacancies earmarked for the ESM (General) category.

Above exercise shall be conducted by passing a necessary order within a period of three months from today.

(P. B. BAJANTHRI)
JUDGE

03.05.2017
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Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No