

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

**CWP-25294-2016 (O&M)
Date of decision: 28.11.2017**

Karan Goyal & another

... Petitioners

Vs.

State of Punjab & others

... Respondents

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

Present: Mr. G.S. Attariwala, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Mr. Kannan Malik, Advocate for respondents No.4 and 5.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

The Subordinate Service Selection Board, State of Punjab (hereinafter to be referred to as 'the Board') issued advertisement No.5 of 2015 dated 24.12.2015 (Annexure P-4) inviting applications for recruitment to various posts including 15 posts of Labour Enforcement Grade-I (Technical) under the Labour Department, State of Punjab. Six posts were earmarked for the general category.

The petitioners herein, who are two in number belong to the general category and had applied for the post in question and accordingly, subjected themselves to a process of selection. There is no dispute as regards the factual premise that in the final merit determined in the selection process by the Board, names of the petitioners figured at Sr. Nos.7 and 8 respectively in the general category.

The instant writ petition was filed assailing the selection of private respondents No.4 and 5 in the general category on the post of Labour

Enforcement Grade-I (Technical) on the ground that they did not possess the essential/requisite qualifications prescribed for the post.

After issuance of notice of motion, a subsequent development has taken place and which would be relevant.

Learned counsel representing private respondents No.4 and 5 made a categorical statement before this Court and which was duly recorded on 08.11.2017 to the effect that in spite of their selection, they are not interested in joining on the post.

In the light of such development, the following order was passed by this Court on 08.11.2017:

“Petitioners herein who were 02 in number and belong to the General Category had applied for the post of Labour Enforcement Grade-I (Technical) in response to an advertisement dated 24.12.2015 (Annexure P-4) issued by the Subordinate Service Selection Board, Punjab. Six posts were earmarked for the General Category.

Case of the petitioners is that in the final merit determined in the selection process, their names appeared at Sr. No.7 and 8 respectively in the General Category.

Challenge in the instant petition is to the selection of private respondent Nos.4 and 5 in the General Category on the ground that they did not possess the essential and requisite qualifications prescribed for the post.

Mr. Kannan Malik, Advocate representing the private respondents has made a categorical statement at the Bar that private respondent Nos.4 and 5 in spite of their selection are not interested in joining the post in question.

Mr. Attariwala, counsel representing the petitioners contends that as a direct fall out, the petitioners who are next in order of merit under the General Category have a vested

right to be issued appointment letters.

Learned State counsel prays for two weeks' time to complete instructions in the matter. State counsel would also verify as to whether respondent Nos.4 and 5 have furnished in writing as regards they having given up their claim for appointment to the post and as to whether there is any other candidate belonging to the reserved category who has secured a merit position higher than the present petitioners.

List on 28.11.2017.”

In response to the order dated 08.11.2017 passed by this Court, an affidavit dated 22.11.2017 of the Additional Labour Commissioner, Punjab has been placed on record and in which, it has been deposed that private respondents No.4 and 5 have furnished in writing that they have given up their claim for appointment as selected candidates to the post of Labour Enforcement Grade-I. That apart, an additional affidavit dated 22.11.2017 of the Secretary, Subordinate Service Selection Board, Punjab has also been filed and wherein it has been clarified that upon perusal of official records, it has been found that no other candidate belonging to the reserved category has secured a higher merit position than the petitioners herein.

What clearly emerges from the pleadings on record is that private respondents No.4 and 5 having furnished in writing that they are not interested in joining the post, the petitioners, who are next in order of merit in the general category would have a vested right to be issued appointment letters against the advertised posts falling to the general category and which have not been consumed.

On behalf of the State, no justification is coming forth so as to deny to the petitioners their right for appointment to the post in question as

per merit secured in the selection process.

Under such circumstances, the instant writ petition is allowed.

It is directed that appointment letters be issued to the petitioners for the post of Labour Enforcement Grade-I (Technical) forthwith. Such appointments shall relate back to the date when other candidates belonging to the general category and who had also applied in response to the advertisement dated 24.12.2015 (Annexure P-4) were issued appointment letters.

Writ petition is allowed in the aforesaid terms.

28.11.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| (i) Whether speaking/reasoned? | Yes |
| (ii) Whether Reportable? | No |