

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CWP No.3016 of 2014(O&M) Date of Decision: 29.09.2017

Jagmohan Singh --Petitioner

Versus

State of Punjab and another --Respondents

2. CWP No.6605 of 2015(O&M)

Jagdeep Singh & others --Petitioners

Versus

State of Punjab and others --Respondents

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

Present:- Mr. C.L. Sharma, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Sr. D.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of CWP No.3016 of 2014 (Jagmohan Singh Vs. State of Punjab & another) and CWP No.6605 of 2015 (Jagdeep Singh & others Vs. State of Punjab & others) as common issue is involved in both these writ petitions.

Petitioners, who are four in number in these two connected petitions, assail the action of the respondent-Agriculture Department, State of Punjab in having declined to them appointment to the post of Agriculture Development Officer.

The Department of Agriculture, State of Punjab through Punjab Agriculture University, Ludhiana issued an advertisement dated 28.10.2011 inviting applications for filling up 154 posts of Agriculture Development Officers. 39 posts were reserved for the Scheduled Castes category. There was a further bifurcation against such 39 posts i.e. 19 to be filled up by Scheduled Castes (Others) and 20 posts by Scheduled Castes

(Balmiki/Mazbi) candidates.

The petitioners herein belong to the Scheduled Castes (Balmiki/Mazbi) category and had submitted their applications in response to the advertisement dated 28.10.2011 for the post in question.

The precise case set up on behalf of the petitioners is that against the 20 posts reserved for Scheduled Castes (Balmiki/Mazbi) category, three candidates, who had been called for counselling as per merit had remained absent and one more candidate, who had been issued appointment letter had declined to join and as such, the petitioners being the candidates next in order of merit are vested with a right to be issued appointment letters.

Per contra, learned State counsel would oppose the prayer of the petitioners by contending that mere participation of a candidate in a recruitment process as also selection does not vest an indefeasible right to appointment. Learned State counsel argues that no right has come to vest in the petitioners which may be enforced by way of issuance of a Writ of Mandamus under Article 226 of the Constitution of India.

Counsel for the parties have been heard at length and the pleadings on record have been perused.

Two documents which stand placed on record at Annexures P-2 and P-4 along with CWP No.6605 of 2015 and which would be vital for the controversy in hand, would require notice. The contents thereof are not disputed by the State. Annexure P-2 reflects the merit position pertaining to Scheduled Castes (Balmiki/Mazbi) category. The names of the four petitioners in these two connected petitions are at Sr. Nos.22, 23, 24 and 25 in order of merit. As per Annexure P-4 which is a memo dated 21.6.2013

issued by the Director, Agriculture, Punjab and as per which against the 20 posts of Scheduled Castes (Balmiki/Mazbi) category, three candidates, who had been placed at merit position nos. 1,2 and 20 had remained absent during the process of counselling. That apart, candidate at merit position no.3 namely Gurpreet Singh son of Balwant Singh had been issued appointment letter but did not join duty. As per memo dated 21.6.2013 (Annexure P-4), the contents of which stand admitted as a matter of record, four posts of Scheduled Castes (Balmiki/Mazbi) category are still lying vacant in relation to the advertised posts vide advertisement dated 28.10.2011. Even during the course of arguments learned State counsel upon instructions from Inderjit Singh, Assistant, office of Director, Agriculture Department, State of Punjab, would concede that four posts of Scheduled Castes (Balmiki/Mazbi) category against the 20 posts reserved for such category against the advertised posts are still lying vacant. It has also been conceded that candidate at merit rank no.21 namely Rajwinder Kaur daughter of Kuldeep Singh Gill has not staked her claim for appointment. The petitioners herein are next in order of merit having rank nos.22, 23, 24 and 25.

There is no quarrel with the proposition that mere participation in a recruitment process and selection does not vest an indefeasible right to appointment. However, at the same time the State Govt. cannot act arbitrarily and decline appointment to the candidates next in order of merit without any justifiable basis. In the present case no such basis is forthcoming. The intent to fill up 20 posts of Agriculture Development Officers from amongst Scheduled Castes (Balmiki/Mazbi) category was clear inasmuch as these number of posts had been duly advertised and a recruitment process had been initiated. The petitioners herein have gone through the rigors of the selection process. They have secured merit ranking

at Sr. Nos.22, 23, 24 and 25. Four candidates, who had secured a higher merit position have either not come present in the process of counselling or have declined to join the post. It is not the case put forth on behalf of the State that by virtue of a conscious decision a minimum bench mark in terms of merit had been fixed and below which no candidate would be considered suitable for appointment. Under such circumstances, State Govt. was obligated to offer appointment to the post of Agriculture Development Officers to the candidates who were next in order of merit. Such candidates against the four vacant posts against Scheduled Castes (Balmiki/Mazbi) category happen to be the present petitioners.

This Court would have no hesitation in recording that the facts and circumstances of the case are just reflective of an adamant attitude of the respondent-Agriculture Department in not issuing appointment letters to the petitioners and such action is arbitrary, illegal as also violative of Articles 14 and 16 of the Constitution of India.

For the reasons recorded above, both the writ petitions are allowed. Respondent-Agriculture Department is directed to issue appointment letters to the petitioners for the post of Agriculture Development Officers within a period of 30 days from the date of receipt of a certified copy of this judgement. Such appointment shall relate back to the date when the other candidates from the same category i.e. Scheduled Castes (Balmiki/Mazbi) were appointed to the post in question. Petitioners, however, would not be entitled to the salary for the period they have not worked against the post.

Petitions are allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

29.09.2017

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