

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

**Civil Writ Petition No.23012 of 2017
Decided on : 09.10.2017**

Sandeep Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Sanjeev Kodan, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

The present writ petition has been filed under Article 226 of the Constitution of India for decision of the representation dated 01.03.2017 (Annexure P-7) in the light of the instructions dated 07.10.1998 (Annexure P-8) issued by the State. Accordingly, directions are sought for grant of appointment to the petitioner from the date the other batch-mates have been appointed to the post of Assistant Superintendent (Jail) against Advertisement No.2/2010 in the Scheduled Caste Category No.03.

It is the case of the petitioner that there was one post for the Outstanding Sports Person (SC Category), for which he had applied and was interviewed in September, 2012. The result was declared on 22.04.2013 (Annexure P-1) and one Dinesh Kumar had been selected against the said post, whereas the petitioner was at Sr. No.1 in the wait list. The respondent No.2-Commission had rejected the candidature of the said selected candidate on account of him being overage. Resultantly the petitioner had applied for consideration of his claim for appointment by serving legal notice dated 21.12.2013. The said candidate had filed **CWP No.21776 of**

2013 challenging the rejection to the appointment. The petitioner also filed **CWP No.2824 of 2014**, which was disposed of on 17.02.2014 (Annexure P-3) to consider his legal notice. Resultantly, order dated 18.03.2014 (Annexure P-4) was passed, in which respondent No.3 took a decision to await the decision of the writ petition filed by Dinesh Kumar and observed that the petitioner could implead himself as respondent. The relevant portion of the said order reads as under:-

“In these circumstances it shall not be appropriate to appoint Sh. Sandeep Kumar at this stage, as the matter is pending for adjudication in the Hon'ble High Court of Punjab and Haryana at Chandigarh. The petitioner may, however, implead himself as respondent in above CWP No.21776 of 2013, if so advised.

Copy of the order be given free of charge to the representationist.”

It is now submitted that the said writ petition has been dismissed vide order dated 29.11.2016 (Annexure P-6) and resultantly the petitioner has started re-agitating his cause vide the impugned notice dated 01.03.2017 (Annexure P-7), since it is the case of the petitioner that vacancy exists on account of the dismissal of the writ petition filed by Dinesh Kumar.

Accordingly, counsel submits that he would be satisfied if a decision is taken in such circumstances upon the said notice since the petitioner has been agitating for his grievances right from day one and on account of time spent in the litigation, his rightful claim, as such, could not be taken away.

Notice of motion.

Ms. Shruti Jain Goyal, AAG, Haryana accepts notice on behalf of the respondents. Copy of the paper-book has been supplied.

Keeping in view the above, this Court is of the considered opinion that at this stage no useful purpose will be served by calling upon the respondents to file reply, since the decision making process is not complete on the representation dated 01.03.2017 (Annexure P-7).

Accordingly, keeping in view the above, this Court is of the opinion that respondent No.3 shall reconsider the case of the petitioner within a period of two months, in view of his earlier decision dated 18.03.2014 (Annexure P-4) sympathetically, keeping in view the above circumstances, specially in view of the fact that vacancy would exist.

Needless to say that, in case, any adverse order is to be passed, the same be conveyed to the petitioners by passing a speaking order.

OCTOBER 09, 2017

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No