

Sr. No.113

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

**CWP No.28184 of 2017(O&M)
Date of Decision:12.12.2017**

Mohit Angurala

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present:- Ms. Alka Chatrath, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner seeks a writ of mandamus to direct the respondent, Punjab State Education Department to consider his claim for appointment to the post of Computer faculty against the Scheduled Caste (R & O) Category.

Brief factual matrix is that advertisement dated 03.12.2011 (Annexure P-1) was issued by the Punjab Information and Communication Technology Education Society (PICTES) inviting applications for recruitment to 700 posts of Computer faculty on contractual basis. As per reservation provided, 70 posts were reserved for SC (R & O) Category.

Present petitioner applied in response to the advertisement and in pursuance to the selection process undertaken, he secured 37.75 marks. Petitioner did not fall within

the zone of consideration in the first counselling and as such was not called. However, petitioner participated in the second process of counselling conducted on 11.03.2013. In such process other candidates who had been bracketed in merit and had also secured 37.75 marks were issued appointment letters on the basis that they were elder in age to the petitioner.

It is the pleaded case of the petitioner that information was sought under the provisions of Right to Information Act as regards the number of candidates who have not joined on the post under the SC (R & O) Category. In response thereto petitioner was informed that there are 07 vacant slots of Computer faculty in the SC (R & O) Category.

The precise claim of the petitioner is that once a post has not been consumed and a meritorious candidate as per merit list prepared is available then the vacancy ought to be filled up by inviting the candidate next in order of merit.

Counsel further submits that the State Government is under a Constitutional mandate to fill up the posts that are reserved for various categories and as such the action of the respondent department in not inviting the petitioner to join on the post which has not been filled up would be violative of Articles 14 and 16 of the Constitution of India.

Having heard counsel for the petitioner at length, this Court is of the considered view that the prayer made in the instant petition cannot be accepted as a highly belated claim is sought to be set up. The present writ petition suffers from delay and laches.

Counsel concedes that the petitioner had participated in a process of counselling conducted on 11.03.2013. Thereafter, information was sought under the Right to Information Act as regards vacant post of Computer faculty under the SC (R & O) Category pertaining to the advertised post and such information was supplied on 15.11.2013 itself. Apparently, petitioner submitted a representation dated 15.04.2014 staking a claim to be appointed being a meritorious candidate and by virtue of having secured 37.75 marks. Clearly, after submitting a representation dated 15.04.2014 petitioner slept over his rights and ultimately woke up to file CWP No.9167 of 2017 and which was also permitted to be withdrawn on 06.09.2017 as per prayer made by counsel representing the petitioner. Thereafter, a legal notice dated 15.09.2017 was served and which has not evoked any response. Resultantly, the instant writ petition.

There is no justification coming forth as regards the inordinate delay of 04 years on the part of the petitioner in having approached the writ Court. Counsel has made an attempt to overcome the obstacle of delay by citing the instance of one Jaspreet Singh who even though belongs to the General Category but has raised a similar claim by filing CWP No.7199 of 2015 and which writ petition is stated to be pending before this Court and fixed for motion hearing on 26.02.2018.

This Court will not permit the petitioner to gain any impetus from the pendency of CWP No.7199 of 2015 filed by Jaspreet Singh who was a General Category candidate and had

also applied for the post of Computer faculty in the same very recruitment process.

Such view is being taken for the reason that Jaspreet Singh having not been offered appointment against vacant post and being next in order of merit was vigilant as regards his rights and had filed CWP No.16168 of 2014 without any delay. Such writ petition was disposed of on 17.10.2014 with directions to the respondent authorities to consider and to take a final decision on his representation vide order dated 17.10.2014 while disposing of CWP No.16168 of 2014. Claim of Jaspreet Singh was rejected by passing a speaking order dated 09.12.2014 which has further been assailed by him without delay in terms of filing CWP No.7199 of 2015. Present petitioner as such cannot cite the instance of Jaspreet Singh to overcome the hurdle of delay.

This Court would have no hesitation in observing that the present petitioner is a fence sitter. Even though the State Government is obligated to fill up the advertised post as per merit prepared and cannot withhold an appointment against vacant post without any justifiable basis, still that does not mean that a candidate who had participated in a selection process would have the liberty and luxury of choosing the time of approaching the writ Court. Petitioner ought to have agitated the matter immediately after receiving information in the year 2013 itself as regard vacant post of Computer faculty in the SC (R & O) Category. Even if a representation had been submitted, it was expected of the petitioner to have approached the writ Court to agitate his claim

within a reasonable time frame.

Petition suffers from delay and laches and is dismissed on this score alone.

Dismissed.

12.12.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No