

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

CWP No.3733 of 2017 (O&M)

Date of decision : 06.10.2017

Vishal Arora and another

.....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. J.P. Singh, Advocate for the petitioners.

Ms. Sudeepti Sharma, D.A.G., Punjab.

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DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to allow the petitioners to participate and to apply manually online for the posts of Punjab Civil Service (Executive Branch) which are to be filled up through Register A-II for the process year 2014 & 2015 initiated vide circular dated 08.12.2016 (Annexure P-1).

Petitioners are aggrieved by the action of the respondents as they have been stated to be deprived of their legal rights to join the selection process for want of proper circulation of circular/letter dated 08.12.2016 by the Head Office, where they are serving as Senior Assistants, even though

they were eligible on the cut off date as per above mentioned circular. They came to know that the vacancies were notified and PPSC had called for requisition for selection to said posts vide Register A-II from the news item published in newspaper 'Ajit' dated 14.02.2017 but for want of proper circulation, many eligible candidates like them, could not apply. It was also mentioned in the news item that total 215 members/employees of ministerial staff applied against six vacancies (for both Register A-II and Register C) and many candidates were from Punjab Civil Secretariat (Main).

Learned counsel for the petitioners submits that the petitioners have been deprived of their right to apply for the posts of Punjab Civil Service (Executive Branch) vide Register A-II, for want of proper circulation. Said circulation was not brought to the knowledge of all the candidates including the petitioners, as no proper communication was sent to Head of the Department. Learned counsel also submits that not only majority of the candidates, who are working in Punjab Civil Secretariat, applied for the post this time, but majority of them have been selected during the previous selection processes. The employees working in other departments were not made aware about the issuance of the circular and many deserving candidates including the petitioners could not apply for the recruitment process in question. At the end, learned counsel for the petitioners submits that no prejudice is going to be caused to the candidates who had already applied and the petitioners may be allowed to participate in the selection process by extending the date of submission of applications. In support of his arguments, learned counsel for the petitioners has relied upon

decisions of Hon'ble the Apex Court rendered in cases ***Brajendra Singh Yambem Vs. Union of India and another 2016(9) SCC 20, I.T.C. Bhadrachalam Paperboards and another Vs. Mandal Revenue Officer, A. P and others 1996 (6) SCC 634, Excise Superintendent, Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and others 1996 (6) SCC 216*** and of the Division Bench of this Court in ***CWP No.361 of 1998 titled as Abdul Razaq Mansoori Vs. State of Punjab and others decided on 26.04.1999.***

In response to the notice of motion, reply has been filed, which is on record. Learned counsel for the respondent-State submits that wrong facts have been mentioned stating that circulation was not made, whereas an advertisement was issued in newspaper 'Hindustan Times' dated 10.12.2016 for filling up the posts of Punjab Civil Service (Executive Branch) vide Register A-II for the year 2014 & 2015. All Heads of the Departments were also informed vide circular dated 08.12.2016. Said circular was also uploaded on the official website. Even the copy of that circular was received in the office of the Director, Land Records, Punjab, which was further circulated to all staff members/employees. Learned State counsel has also shown the photocopy of the e-mail sent on 20.12.2016, which was duly received by the Head of the Department of the petitioners. Learned counsel submits that the advertisement was published in two newspapers, which were widely circulated in the State of Punjab.

Heard the arguments advanced by learned counsel for the petitioners as well as learned counsel for the respondent-State.

The petitioners have filed the present writ petition for allowing them to provisionally participate in the selection process for the post of Punjab Civil Service (Executive Branch) vide Register A-II which was displayed on the website of Punjab Service Commission on 05.09.2017. They are stated to be aggrieved by the action of the respondents in depriving a large number of employees for want of proper circulation. The Head of the Department did not receive any intimation and accordingly, the same was not further circulated to all staff members/employees. The petitioners are working as Senior Assistants in the office of the Director, Land Records, Punjab (respondent No.5) since 28.10.2010. The selection process to the said posts to be filled through Register A-II for the process year 2014 & 2015 was initiated vide circular dated 08.12.2016 issued by the Punjab Public Service Commission. It was addressed to all the Financial Commissioners and other authorities, including all Heads of the Departments. Not only the public notice was published in two daily newspapers circulated in State of Punjab but the circular was also circulated/sent to all Heads of the Departments including Head of Department of the petitioners as is clear from the affidavit filed by the respondent. Even a photocopy of the e-mail message has been shown at the time of arguments by learned State counsel. Meaning thereby, it cannot be said that there was no proper publication/circulation when it has already been circulated by the Head of the Department to all employees.

Even it has also been brought to the notice of this Court while arguing the case by learned State counsel that some of the candidates from

the petitioners' department have also applied, which shows that the public notice was in the knowledge of the employees of the department of the petitioners. The judgments cited by learned counsel for the petitioners are not applicable to the facts of the case as in some of the judgments, the names of some of the candidates were notified with the Employment Exchange and other candidates who were not enrolled with the Employment Exchange could not get opportunity to apply. It was, therefore, held that not only through the Employment Exchange but there should be a proper circulation by issuing public notice so that it may come to the knowledge of all candidates who are interested in applying for the post advertised by the concerned authorities. The arguments of learned counsel for the petitioners do not carry any weight to the extent that the public notice was widely circulated amongst the candidates from Punjab Civil Secretariat (Main) and majority of the candidates belong to Punjab Civil Secretariat (Main) only. It cannot be said that the candidates who are working in other departments have been deprived of their rights for want of improper communication. The communication was not only sent to all Heads of the Departments through circular but they were informed through e-mail also. The selection process cannot be postponed only because some of the candidates like the petitioners could not apply well in time or could not get any intimation for various reasons. The purpose of publication of notice in the newspapers is only to make aware every candidate who is interested in applying for the post.

Accordingly, I find no merit in the contentions raised by

learned counsel for the petitioners and the petition, being devoid of any merit, is hereby dismissed.

06.10.2017

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No