

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

CWP No.9559 of 2017 (O&M)

Date of Decision: 18.5.2017

Nirmesh

... Petitioner

Versus

Punjab National Bank and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Harkesh Manuja, Advocate for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. Cites Mrs. Asha Kaul And Anr. Etc vs State Of Jammu And Kashmir And Ors. 1993 (2) SCC 573 to contend that though mere selection with name placed in the reserve list may not lead to an indefeasible right to appointment, but at least the reason should be made known as to why the respondent-Punjab National Bank notified 124 vacancies for filling the post of Clerks in the OBC Category amongst others and recruited only 97 candidates. The reason must stand judicial scrutiny.

2. Mr. Manuja submits that the reason for withholding 27 advertised vacancies by sending requisition to the selection agency IBPS and taking them forward for the next recruitment process is based on erroneous view as all the advertised vacancies should have been filled and accordingly the petitioner ought to have been offered appointment is the recruitment process 2016-2017 for which she was a candidate. This approach adopted by the respondent Bank has curtailed her right of consideration.

3. The petitioner applied an application under the Right to Information Act, 2005 to the respondent-Bank to disclose to her the reason as

dated 26th January, 2017 is at Annex. P-8 wherein the reason for rendering 27 vacancies infructuous has been supplied informing the petitioner that the Bank, in the meanwhile, had re-assessed the manpower position for the year 2016-2017 and found that there is no requirement of Clerks in respect of Haryana State for the financial year 2016-17. It is for this reason, the petitioner was not called to participate in the second round of the selection process.

4. It has been further clarified in the response letter that vacancies indented under 'Clerk-6' are tentative and may arise only during the financial year 2017-18. The petitioner was informed that as regards vacancies arising due to non-joining, the same are accounted for against reserve list. Communicating to IBPS about unfilled vacancies depends on the Bank's manpower requirement.

5. Since the reason for action taken has been explained in the letter dated February 4, 2017, the test in *Mrs. Asha Kaul* stands satisfied and there would be nothing left for this Court to issue notice for only to call upon the Bank to answer what has already been explicitly stated in the letter dated 14th February, 2017 which reasons appear to this Court to be justified and beyond reproach.

6. I may record in passing that the petitioner's rights will remain subject to rights of others who have become eligible in the meanwhile and a direction to the Bank to appoint the petitioner as prayed for, would only disturb third parties' rights and the extent and need for manpower to the extent filled in a war of attrition of appointments where lakhs of candidates compete with each other neck to neck for finding jobs and careers. The petitioner cannot claim an appointment from the reserve list as a matter of

with the decision of the Bank in refusing to touch the reserve list or in advertising the fresh process by sending requisition to the IBPS for the subsequent financial year to fill up the pool of vacancies of clerks.

7. For the foregoing reasons, this petition has no substance and is dismissed.

18.5.2017
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No