

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 14918 of 2011 (O&M)

Date of Decision: 19.11.2018

Pawan Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Kanwaljit Singh, Senior Advocate with  
Mr. Abhishek Bajaj, Advocate and  
Ms. Payal, Advocate  
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Mr. R.N. Lohan, Advocate  
for respondent No.4.

**RAJIV NARAIN RAINA, J. (Oral)**

1. By way of this petition filed under Article 226/227 of the Constitution of India, the petitioner has prayed for issuance of writ of certiorari for quashing the selection of Laboratory Technicians, Health Department, Haryana made by the Haryana Staff Selection Commission, qua the physically handicapped quota issued against Advt. No. 5 dated 05.07.2007 (Annex. P-5). He also seeks mandamus declaring the petitioner selected candidate by referring to the corrigendum issued on 22.09.2008. He further prays that there is a vacancy left unfilled from the selection process which may be offered to him.

2. The petitioner applied under the Physically Handicapped Category (Ortho) and was allotted roll No. 001595 scoring 41.49 marks in the examination. He was placed in the waiting list under Physically Handicapped Category (Ortho) at serial No. 1 as per result declared by the Haryana Staff Selection Commission (Annex. P-5).

3. As per letter dated 06.09.2012 addressed to one Satnam Dass Kamboj, lodged under the RTI Act, the State Public Information Officer-cum-Head (Malaria), Director Health Services (Malaria) Haryana, Panchkula, supplied information revealing that selected candidate Mamta Rani d/o Hari Chand, roll No.001727 did not join the post. It is also stated that the Department has cancelled the selection but the waiting list has not been sent by the Commission. This last sentence appears on the face of it contrary to the result sheet of the Commission at Annex. P-5 declared in all categories including PHC (Ortho).

4. It may be noticed that the selection process has been upheld recently by this Court in CWP No. 17716 of 2010, Akhil Sharma and others Vs. State of Haryana and others and connected writ petitions decided on 12.07.2018.

5. When the matter came up for hearing on 26.10.2018, this Court sought the presence of the petitioner in person on the next date of hearing i.e. on 31.10.2018, when the petitioner appeared and I took note of his physical appearance. Then followed interim order dated 31.10.2018 which reads as follows:

*“To produce the original application of the petitioner along with testimonials/documents attached thereto, adjourned to 13.11.2018.*

*The petitioner will request a date for medical examination from the office of the Civil Surgeon, Yamuna Nagar.*

*Meanwhile, the Civil Surgeon, Yamuna Nagar will examine the petitioner and inform this Court whether he can perform the duties of Lab Technician.*

*A copy of this order be given dasti to both sides.”*

6. In response to these interim orders, State counsel has filed an affidavit of Dr. Kuldeep Singh, Civil Surgeon, District, Yamuna Nagar, Haryana in which the deponent has stated in paragraph No.4 that on the basis of the medical report signed by the Medical officers and countersigned by Medical Superintendent of the Mukund Lal General Hospital Yamuna Nagar dated 05.11.2018, the petitioner is fit for doing the work of Laboratory Technician even though his percentage of handicap is assessed at 70%. Copy of the report has been enclosed.

7. The petitioner is litigating since 2011. The affidavit confirms that in case appointment is offered to the petitioner, he would be equal to the task. Affidavit is taken on record with copy given to the counsel opposite.

8. In these facts and circumstances, this Court is of the considered view that the petition deserves to be allowed without disturbing the rights of the private respondents (respondent Nos. 4 to 6).

In case it is confirmed as a matter of fact that Mamta Rani did not join the post of Laboratory Technician, the vacant post it may be offered to the petitioner as per his merit in the waiting list. In case of appointment, his benefits will be notional and salary will be given from the date of appointment, if otherwise eligible. The petitioner will be ranked in seniority at the merit position determined by the Commission with reference to Advt. No. 05/2007 but his name will be kept below the names of the private respondents.

9. The petition is allowed. Let the consideration take place within six weeks from the date of receiving of the certified copy of order.

**(RAJIV NARAIN RAINA)**  
**JUDGE**

**19.11.2018**

kv

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*