

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

CWP-20627-2011 (O&M)  
Date of decision : 22.03.2018

Sukhwant Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. N.P. Mittal, Advocate for the petitioner.

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

None for respondent No.3.

Mr. Jagdish Mitter, Advocate for respondent No.4.

**JITENDRA CHAUHAN, J.**

The petitioner is aggrieved against selection/appointment of respondent Nos.3 and 4 for the post of Vocational Master (Mechanical) being lower in the final merit list vis-a-vis the petitioner.

It is contended that the petitioner could not attend the counselling on the date and time prescribed for want of any communication or notice or public notice issued by respondent No.2. Thereafter, in pursuance of public notice, Annexure P-6, the petitioner presented himself for second counselling, but he was not allowed to attend the same, resulting into the selection of candidates lower in merit than the petitioner. Learned counsel has placed reliance upon *Asha Vs. Pt. B.D. Sharma University of Health Services, 2012(3) SCT 457 (SC)* to contend that it is not only

unfortunate but apparently unfair that the petitioner has been denied the appointment.

On the other hand, learned State counsel refers to notice dated 28.06.2011 (Annexure R-1), published in various newspapers, whereby, the candidates were called for counselling. It was specifically mentioned in the notice that failure of any candidate to report personally on the given date and place would result into the forfeiture of his/her candidature. However, the petitioner did not come present at the relevant time and place. Thereafter, the petitioner was afforded opportunity of hearing in the office of respondent No.2-Director, Public Instruction (S.E.), Punjab on 18.04.2013, wherein, he admitted that he did not attend the counselling as he did not have the internet facility.

Heard.

A similar controversy arising out of the advertisement in question has been dealt with by a Division Bench of this Court in LPA No.1377 of 2015, titled as ***Monika and others Vs. State of Punjab and others***, decided on 12.10.2015, wherein, it has been held as under:-

*“We have heard learned counsel for the appellants and find no merit in the present appeal. The assertion in the writ petition is that the appellants belong to deep rural areas, therefore did not come to know about the dates of counselling, is factually incorrect. All the appellants except appellant No.1 are residents of urban areas i.e. Amritsar, Kapurthala, Ferozepur, Jalandhar, Pathankot etc. Therefore, the assertion that the appellants could not appear for counselling seems to be a made up ground. Once, the appellants have*

*submitted applications for the posts in pursuance of a public notice issued, therefore, the subsequent public notices informing the date of counselling cannot be permitted to be dispute. The appellants have chosen not to appear in the counselling conducted twice over. Once the appellants have failed to appear for counselling and a junior in merit has been appointed, it is the voluntary act of the appellants leading to an inference that the appellants were not ready and willing to offer themselves for appointment.”*

Public notice, Annexure R-1, clearly stipulates that “*Failure of any candidate to report personally with all complete certificates/original document shall lead to forfeiture of his/her claim....*”. Once, having applied for the posts in question, it was incumbent upon the petitioner to remain alert and vigilant. No cogent explanation has been advanced on behalf of the petitioner to condone his absence at the relevant time and place. The action/inaction of the petitioner amounts to forgoing his rights and he cannot be allowed to undo the same at a belated stage. The petitioner cannot derive any benefit from the ratio of law laid down in **Asha's case** (supra), as the facts of the reported case are distinguishable.

In view of the above discussion, this Court is of the considered opinion that the instant petition is devoid of any merit and the same is, hereby, dismissed.

**22.03.2018**  
**atulsethi**

**(JITENDRA CHAUHAN)**  
**JUDGE**

|                               |     |    |
|-------------------------------|-----|----|
| Whether speaking / reasoned : | Yes | No |
| Whether Reportable :          | Yes | No |