

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

**CM 14558-59/2018 and
CM 9634/2018 in/and
CWP 29791/2017 (O&M)
Date of decision:30.10.2018**

Ramandeep Singh and others

.....Petitioners

v.

Chairman-cum-MD, PSPCL and another

.....Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Nikhil Anand,Advocate for the petitioners
Mr.Abhilaksh Grover,Advocate for the respondents.

Jaswant Singh,J,(Oral).

Punjab State Power Corporation Limited-respondent PSPCL issued an advertisement dated 17.6.2015 (P-2) for filling up various posts including 500 posts of Lower Division Clerks (LDCs)/Cashiers. The petitioners being eligible, as per the qualifications prescribed, applied for the post and undertook the selection process comprising of a written test held online on four dates in the month of December 2015 and January 2016. The result was declared on 24.5.2016. The candidates placed in the selection list were called for verification of their documents /like counseling in different batches in a phased manner starting from 1.8.2016. The seven petitioners belonging to general as well as reserved categories based on their secured merit participated in the counseling conducted on 5th and 6th of July 2017. Their documents were found in order.

The grievance raised in the present petition is that inspite of

falling within the zone of appointment against the advertised vacancies in their respective categories, and their documents having been found in order, the respondent PSPCL has illegally withheld issuance of appointment letters.

This Court vide order dated 13.3.2018 while granting time to file reply to the respondents had stayed the process of selection contemplated through issuance of fresh advertisement dated 16.12.2017, which *inter alia* included the unfilled vacancies qua which the petitioners are laying their claim.

Upon notice and subsequent hearing the main case stands adjourned to 11.1.2019. Alongwith the same CM 9634/2018 filed by respondent PSPCL for placing on record the written statement also stands adjourned without there being any order.

Subsequently, CM 14558-59/2018 have been moved by PSPCL seeking preponement of date of hearing from 11.1.2019 as also vacating the interim order dated 13.3.2018. Order dated 15.10.2018 in the said two applications was passed while issuing notice of these two CMs for today, to the counsel for non-applicant/petitioners. The said order reads as under:-

“ Respondent-PSPCL has filed two separate applications; one for vacating the interim order dated 13.3.2018 and the other for preponing date of hearing of the main case listed for 11.1.2019.

A perusal of the order dated 27.12.2017, a precursor to the stay order dated 13.3.2018, makes it evident that seven petitioners (4 General, 1 SC and 2 BC) were selected for appointment as LDCs against posts advertised in their respective categories out of total posts of 500 LDCs, advertised by PSPCL on 17.6.2015. The

recommendations for appointment were made in July 2016 by the recruiting wing of the PSPCL to its other wing dealing with issuance of appointment letters.

Petitioners concededly fall within the zone of appointment based on their selection against the advertised posts in their respective categories, however, are being denied appointment merely on the ground that validity of the Select List had expired on 31.7.2017.

It is the contention of the petitioners that they were called for checking of the documents on 5.7.2017 and therefore, the rigors of aforesaid decision would not be applicable to them. That apart, it is highly questionable that the offer of appointment to such candidates can be denied merely on the plea of expiry of Select List in the face that no fault can be attributed to the selected candidates. Merely on account of delay in completing the process of appointment by the PSPCL, in the considered view of this Court, would not be a justified reason for defeating the legitimate right of the selected candidates falling within the zone of appointment to the extent of advertised vacancies.

Be that as it may, the learned counsel for respondents, on instructions, states that the PSPCL is ready and willing to offer appointment letters to the petitioners only who have chosen to be vigilant in pursuing their rights.

Notice of both the applications to the counsel for petitioners for 30.10.2018.

To be shown in the urgent list.

Let the appointment letters to the petitioners be issued before the said date.

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At the time of resumed hearing today, counsel for the petitioners has no objection for preponement of date of hearing and disposal of the main writ petition as infructuous in view of the respondent PSPCL having issued appointment letters to all the seven petitioners.

In view of the statement of learned counsel for the petitioners, CM for preponement is allowed as also CM 9634/2018 for placing on record the written statement of PSPCL. Consequently, the main case with the consent of counsel for the parties is preponed and taken up for hearing today itself.

In view of the aforesaid subsequent circumstances, the limited prayer made on behalf of counsel for the respondents-PSPCL is for restricting the benefit of appointment to only present petitioners as some of the candidates placed above the petitioners in the selection list have not chosen to be vigilant in pursuing their claim for appointment leading to the respondents having initiated fresh process of selection through a fresh advertisement; as also the entire selection process qua advertisement (P-2) having been declared over/closed on 31.7.2017.

The prayer on behalf of respondents is reasonable and supported by settled principle of law that the candidates who are not vigilant enough to pursue their claim can be denied relief being fence sitters, thus accepted.

In view of the aforesaid circumstances the present writ petition is disposed of as infructuous.

30.10.2018
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No