

CWP-29816-2018 (O&M)

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

**CWP-29816-2018 (O&M).
Decided on: November 27, 2018.**

Tejinder Singh

.. Petitioner

VERSUS

State of Punjab and others

.. Respondents

*** * ***

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

*** * ***

**PRESENT Mr.Kamaldip Singh Sidhu, Advocate,
for the petitioner.**

JASWANT SINGH, J. (ORAL)

The petitioner belongs to the category of SC (R&O) and had competed for appointment against the 78 posts earmarked for the said category out of 527 total posts of Jail Warders, in the Punjab Prisons Department, advertised on 12.10.2011. The Department issued public notice on 5.6.2014, cancelling the selection process on the ground of irregularities committed in the selection process. The decision to cancel was assailed before this Court in CWP No.15409 of 2014 along with a bunch of 40 writ petitions which came to be decided vide judgment dated 17.12.2016, whereby the decision to cancel the selection process was quashed. The

CWP-29816-2018 (O&M)

respondent-Department was directed to undertake the selection process by adopting the criteria as notified in the advertisement and prepared fresh merit list. This is how the process got delayed.

Concededly, in the fresh selection process, the petitioner has been placed at No.3 of the 8 wait listed candidates after finalisation of the selection list comprising 78 selected candidates.

The claim of the petitioner for appointment against the existing vacancy of Jail Warder has been rejected vide speaking order dated 24.5.2018 (Annexure P6), passed in compliance of the directions passed by this Court in the earlier writ petition filed by the petitioner.

Counsel for the petitioner has referred to the information supplied vide memo dated 7.8.2018 (Annexure P7), to show that the advertised vacancies in his category had remained vacant against which the petitioner has a right of appointment.

After hearing the counsel for the petitioner no case for interference is made out. In the speaking order passed by an officer of the rank of ADGP, in compliance of the directions passed by this Court, it has been specifically noticed that the 78 candidates had joined the service against the 78 posts advertised in the category of SC (R&O).

To a pointed query, the learned counsel for the petitioner concedes that due to non-joining of 2 candidates out of the original selection list of 78 candidates, 2 persons higher in merit and placed above the petitioner in the waiting list were offered appointment and they have joined. Thus, the claim is primarily directed against the vacancy which has

CWP-29816-2018 (O&M)

accrued on account of resignation of one of the selected and appointed candidate. The officer concerned on perusal of the record pertaining to the recruitment has rightly noticed that petitioner Tejinder Singh as also others are not entitled for appointment against vacancies which arose on account of resignations tendered by the candidates who had already consumed the advertised vacancies. It is well settled that the right of wait listed candidate for appointment is only against the unconsumed advertised vacancies. No doubt, the employer, if chooses, can appoint candidates out of the available wait-listed candidates against the subsequent vacancies, however, wait-listed candidates cannot claim any vested right for a mandamus for forcing the employer to fill up that subsequent vacancy from the wait-listed candidates. It has been rightly noticed that the vacancy would be carry forward for the selection next year. If there are other vacancies, which may have subsequently become available, the petitioner cannot claim any right qua them, as they have to be offered for selection to all eligible candidates.

In view of above, no grounds for interference are made out.

Dismissed.

(JASWANT SINGH)
JUDGE

November 27, 2018.
raj arora

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No