

CWP No. 5814 of 2018

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

**CWP No. 5814 of 2018
Date of decision: 09.3.2018**

Mukesh Kumar and other

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sunil K. Nehra, Advocate
for the petitioners.

ARUN PALLI, J. (Oral)

Notice of motion.

Mr. Siddharth Sanwaria, DAG. Haryana, present in court,
accepts notice on behalf of the respondents. Copies supplied.

In the nature of order I propose to pass, no formal written
statement(s)/counter-affidavit(s) on behalf of the respondents are indeed
necessary at this stage. Thus, with the consent of learned counsel for the
parties, the petition is being finally disposed of.

The petitioners are working with the respondent-College as
Laboratory Attendants. In terms of their letters of appointment, they are
governed by Government Employees Conduct Rules, 1966. As per the
Haryana Health Department Laboratory Technician (Group C) Service
Rules, 1998, next promotion from Laboratory Attendant is to the post of
Laboratory Technician. And under the said Rules, 25% of the posts of
Laboratory Technician are required to be filled by way of promotion from
amongst the Laboratory Attendants. The petitioners purport to be fully

CWP No. 5814 of 2018

eligible for promotion to the said post, and alleged to have even represented to the respondents to consider their claims against their quota. Though, the respondents have not responded to any of those representations, but have instead, issued an advertisement dated 9.6.2017 (Annexure P-4), vide which 31 posts of Laboratory Technician are sought to be filled by way of direct recruitment. Further, in response to the information sought under the RTI, the respondents have clarified that there are 42 sanctioned posts of Laboratory Technician, out of which 31 are lying vacant, but are required to be filled by way of direct recruitment.

The case set out in the petition is; that 11 posts of the Laboratory Technician have already been filled by way of direct recruitment, and none of the Laboratory Attendants have since been promoted. The reason being cited by the respondents; that all such posts have to be filled under the Service Rules of PGIMS, Rohtak, till the rules of the respondent-Institute are approved by the Government is erroneous. For, the Rules of PGIMS, Rohtak, cannot be applied to the petitioners, as the conditions in their letter of appointments specifically postulate that they shall be governed by the Civil Services Rules. Thus, Haryana Health Department Laboratory Technician (Group C) Service Rules, 1998, govern the service conditions of the petitioners. So much so, in response to one of the representations of the petitioners, the Director, BPS, Government Medical College for Women, Khanpur Kalan, Sonapat, required respondent No.2 to clarify if the claim of the petitioners for promotion, to the post of Laboratory Technician, could be considered, but the matter has not made any tangible progress since then. Whereas, 31 posts of Laboratory Technician have since been advertised, and in the event, the same are filled by way of direct recruitment, the petitioners

CWP No. 5814 of 2018

3

would suffer an incalculable loss. It is urged, that in terms of 25% quota, as indicated above, 10 posts of Laboratory Technician, have to be filled by way of promotion. Therefore, the petitioners purport to have repeatedly represented to the respondents in this regard, but to no avail.

In response, learned State counsel submits that claim/grievance of the petitioners as also their representation dated 27.6.2017 (Annexure P-3), shall be considered and dealt with within a period of four weeks from today. And appropriate orders, in accordance with law, shall be passed, and communicated to the petitioners.

The petition is accordingly disposed of, in the above terms. In the event, claim of the petitioner is declined, the respondent authorities shall pass a comprehensive order assigning reasons in support thereof. Further, till appropriate orders, as indicated above, are passed, 10 posts of Laboratory Technician shall not be filled by direct recruitment.

09.3.2018
Ak Sharma

(Arun Palli)
Judge

Whether speaking / reasoned:	YES
Whether Reportable:	NO