

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

**Civil Writ Petition No. 9477 of 2017 (O&M)
Date of Decision: 06.10.2018**

Om Pal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. R.K. Arora, Advocate
for the petitioner.

Mrs. Anu Chatrath Kapur, Additional Advocate General, Punjab
for respondent Nos. 1 & 2/State and assisted by
S/Sh. Arvinder Singh and Kamaldeep Singh, Sr. Assistants,
Department of Irrigation, Punjab.

None for respondent Nos. 3 & 4.

JASWANT SINGH, J. (ORAL)

Petitioner (Om Pal) has competed for appointment in the General Category as “Sub Divisional Engineer (Mechanical)” in the Department of Irrigation pursuant to the Advertisement dated 24.10.2016 (**Annexure P-2**). The total number of posts advertised were sixteen (16), out of which eight (08) meant for General Category. The petitioner was placed at merit position No. 9 in the combined merit list in the General Category.

By filing the present petition, the petitioner has laid challenge to the uploaded answer keys *qua* four (04) questions, as detailed in para-8 of the writ petition.

Since the objections filed by the petitioner against the answer keys of the aforesaid four (04) questions had resulted into deduction of twelve (12) marks, the challenge was also to the criteria of negative marking

for filing the objections.

Upon notice, reply stands filed, contesting the claim of the petitioner.

Be that as it may, on the previous dates of hearing, counsel for the petitioner had submitted that since one Jasmeen Singh, placed at merit No. 4, had not accepted the offer of appointment, hence, the petitioner, being next in merit, was entitled to be offered appointment against the unconsumed advertised vacancy in the General Category. The previous order dated 04.10.2018 reads as under:-

“ CM No.13455 of 2018 was listed for hearing on 14.09.2018 when the following order was passed:-

“ CM No.13455 of 2018 has been filed by the applicant/petitioner seeking appointment being next in merit/first in the waiting list in view of a candidate in the merit list having not accepted the offer of appointment and the vacancy remained unconsumed, it is urged that without going in to the merits and the contentions raised in the petition, the petitioner is entitled to appointment in view of the aforesaid grounds.

Notice of the CM.

On the asking of the Bench, Ms. Kanika Sachdeva, AAG Punjab accepts notice.

*List on **04.10.2018**.*

To be shown in urgent. ”

At the time of hearing learned State Counsel although assisted by Mr. Arvinder Singh, Senior Assistant, Irrigation Department, Punjab is unable to apprise the Court with regard to the aforesaid factual position, however, keeping in view the merit list at Annexure P-15 and coupled with the fact that one Jasmeen Singh placed at merit no.4 having not consumed the vacancy by accepting the offer of appointment, the petitioner should have been issued an appointment letter.

Mrs. Anu Chatrath Kapoor, Additional Advocate General, Punjab prays for a day's adjournment to do the needful.

*List on **06.10.2018**.*

To be shown in urgent.

In case the appointment letter is not issued before the next date of hearing, let the Principal Secretary, Department of Irrigation, Punjab be personally present in Court.

Copy of this order be given to the learned State Counsel under the signatures of Bench Secretary. ”

At the time of resumed hearing today, learned State Counsel, on instructions from S/Sh. Arvinder Singh and Kamaldeep Singh, Sr. Assistants, Irrigation Department, Punjab, states that the seven (07) candidates above in merit to the petitioner have not yet been offered appointment letters due to pendency of the approval by the Minister concerned, however, in view of the previous orders, she has produced an appointment letter dated 05.10.2018, offering appointment to the petitioner, subject to fulfillment of the terms and conditions therein.

The offer of aforesaid appointment letter dated 05.10.2018, of course, would be subject to the petitioner being declared medically fit, as also verification of character antecedents etc. etc. It is also clarified that the petitioner would be allotted a posting order alongwith others as and when they are offered appointment letters and permitted to join. The issuance of the aforesaid appointment letter would not vest any better right to the petitioner than the other candidates.

Counsel for the petitioner, accepting the aforesaid factual position, concedes that nothing more survives for adjudication in the present petition and the same has become infructuous.

“Disposed of in the above terms”.

October 06, 2018

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>