

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

CWP No.25476 of 2014 (O&M).

Date of Decision: 10.07.2019

Neeraj Sharma and another

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. G.S. Bal, Sr. Advocate with
Ms. Harmanpreet Kaur, Advocate,
for the petitioners.

Ms. Bhawna Gupta, DAG Punjab.

Mr. Vikas Chatrath, Advocate,
for respondent Nos. 7 to 10.

Respondent No.6 *ex parte* vide order dated 05.09.2017.

JITENDRA CHAUHAN J.

The petitioners have sought quashing of order dated 02.10.2014 (Annexure P-8) passed by respondent No.5 vide which the claim of the petitioners for appointment to the post of Agricultural Development Officer was declined.

It is contended that an advertisement (Annexure P-1) was issued in the month of November, 2011 by Punjab Agricultural University, Ludhiana inviting applications for 154 post of Agricultural Development Officers in the pay scale of Rs.10300-34800+Grade Pay 5000/-. Out of 154 posts, 69 posts were meant for general category and 39 posts were meant for Scheduled Castes, 18 posts for Backward

Class, 11 posts were meant for Ex-Servicemen, 05 posts for Physically Handicapped and 03 for SportsPerson and 01 post for Freedom Fighter. Petitioner No.1 applied under General category (sub-category Ex-Serviceman) and petitioner No.2 had applied under Backward Class category. In the written examination, petitioner No.1 obtained 49.83 marks and his rank was 68 which was shifted to 66 as two candidates at serial No. 22 and 52 in the merit list were found ineligible whereas, petitioner No.2 obtained 50.06 marks and his overall rank was 64 and rank No.8 in BC category. The petitioners appeared in the counselling on 23.05.2012. Petitioner No.1 was asked to give written consent that he be considered in general category whereas, petitioner No.2 applied under BC category and was selected in general category also so, he appeared on 23.05.2012 and was offered seat in BC category. The appointment letters were not issued to the petitioners despite the recommendations made by the respondent No.4.

Learned counsel refers to letter dated 31.08.2012 (Annexure P-5) to contend that 10 candidates were called for re-counselling but only 3 candidates including the petitioners appeared for counselling and consequently after verifying their testimonials, a specific direction was made in the following terms:-

“All the aforesaid three candidates are eligible for this post. Government is requested that these three candidates be issued appointment letters.”

It is further contended that appointment letters were issued in favour of respondent Nos. 6 to 9 who were lower in merit. Vide impugned order dated 02.10.2014 (Annexure P-8), the claim of the petitioners was declined on the ground that the counselling for general category was fixed for 22.05.2012 and 23.05.2012 and the counselling for scheduled caste category was fixed for 24.05.2012 and for Ex-Serviceman and BC category counselling was fixed for 25.05.2012 but the petitioners did not appear in the counselling on 25.05.2012 for their respective categories and as such, the Committee did not recommend their names and the post was offered to candidate next in the merit list. A representation dated 09.01.2013 (Annexure P-7) was moved by the petitioners.

On the other hand, on behalf of the respondents, it is contended that different dates were fixed for counselling of candidates belonging to various categories. The petitioners did not appear for counselling on the dates fixed for their respective categories. Petitioner No.1 applied in the Ex-Serviceman category. He did not appear before the Committee on 25.05.2012 and hence the committee did not recommend his name and the post was offered to the next candidate as per the merit list. Petitioner No.2 had applied under BC category but he did not appear for counselling before the committee on 25.05.2012 hence his name was also not recommended.

Heard.

In paragraph No.6 of the petition, there is a specific

avermment that as per the counselling notice, the counselling for the general overall merit i.e all candidates (general as well as reserved category) counselling for the candidates between Sr. No.1 to 50 was to be conducted on 22.05.2012 and counselling for general overall merit from Sr. No.51 to 110 was to be held on 23.05.2012, which fact is duly admitted by respondent Nos. 1 to 5 in the corresponding paragraph of the written statement. As per the record, as against total 69 posts meant for the general category, petitioner No.1 had obtained 49.83 marks and stood at rank No.68 which was further shifted to 66 as two candidates at serial No.22 and 52 in the merit list were found ineligible. Whereas petitioner No.2 had obtained 50.06 marks and his overall rank was at 64. Accordingly, they appeared in the counselling on the date fixed for the general category i.e. on 23.05.2012 which fact is also specifically admitted by the respondents. Once the petitioners are higher in the merit list and have appeared in the counselling on the date fixed for general category candidates and after their testimonials were found to be in order despite the recommendations made by respondent No.4 to issue appointment letters, therefore, in the given context, denial of appointment letters to them is an act of non-application of mind by the respondents, for which the petitioners cannot be put to loss.

In view of above, the present civil writ petition is allowed.

The impugned order dated 02.10.2004 (Annexure P-8) is hereby quashed. The respondents are directed to accommodate the petitioners

under the general category and fix their pay notionally. The necessary exercise be completed within two months from the date of receipt of certified copy of the judgment.

10.07.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No