

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

CWP No.22602 of 2019

Date of Decision: August 26, 2019

Ashok Kumar

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Deepak Vashishth, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

Notice of motion.

Ms. Shruti Jain Goyal, learned Deputy Advocate General,
Haryana accepts notice on behalf of the State.

The predictament expressed in the present writ petition is that the State Government cannot cause advertisement (Annexure P-9) dated 20.06.2019 inviting applications for appointment to the posts of Clerk. Petitioner cleared the test and was kept at Sr.No.8 in the waiting list. The incumbent, who joined as Clerk left the service and the petitioner, in such circumstances, was issued appointment letter dated 08.03.2019 (Annexure P-4). However, since the petitioner had already been issued appointment letter as Statistical Assistant on 11.01.2019, which was though subject to the outcome of the writ petition, but despite that the department had taken the decision for removal him from service in July,2019, though the order in the writ petition referred to in the appointment letter is of December, 2018. He

submitted a representation dated 09.07.2019 (Annexure P-8) which was during the subsistence of the waiting list. In such circumstances, petitioner has been left in lurch.

Ms. Shruti Jain Goyal, learned Deputy Advocate General, Haryana informs the Court that petitioner's grievance cannot be redressed at this stage on the grounds that he cannot create a lien and the appointment letter envisaged a condition that the appointment is subject to the outcome of the writ petition even if the petitioner is not a party. As per the condition imposed in the appointment letter, it was a prerogative of the petitioner to give option as per his own decision or choice. Even if the posts are lying vacant, department cannot be precluded to fill up the same in accordance with law, which has been done as per advertisement dated 20.06.2019 (Annexure P-9).

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the alleged predictament, for, the terms and conditions of the appointment letter appointing the petitioner as Statistical Assistant are sacrosanct. For the sake of brevity, relevant portion of the same reads thus:-

“The appointment is subject to final outcome of CWP No.391/2018 in the Punjab and Haryana High Court and any other writ petition pending in the Hon'ble High Court.

That Hon'ble Punjab and Haryana High Court vide its order dated 20.12.2018 passed in CWP no.391/2018 whereby HSSC considered and selected Sh.Kapil Dev against EBPGC Category and you have been put in the waiting list.”

Once it was subject to the outcome of the writ petition, the appointment was conditional. It is a matter of record that the decision of a writ petition referred to a candidate, who was found successful, resulted into

petitioner's removal from service as Statistical Assistant vide order dated 05.07.2019 (Annexure P-7). Opportunity given to the petitioner vide appointment letter dated 08.03.2019 (Annexure P-4) has not been availed as per the choice of the petitioner and, thus, cannot volte-face and seek lien on the post which is sought to be filled up through advertisement. The contention of the State cannot be said to be fallacious or opaque.

No ground for interference is made out. Writ petition stands dismissed.

August 26, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No