

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.28123 of 2018 (O&M)

Date of Decision.27.09.2019

Ravinder Kumar

...Petitioner

Vs

State of Haryana and others

...Respondents

Present: Mr. G.S. Gopera, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.14238 of 2019

Application is allowed subject to all just exceptions.

Annexures P-15 and P-16 are taken on record.

C.M. No.14239 of 2019

Prayer in the application cannot be accepted, in view of the fact
that the main case is listed for today.

Application stands disposed of.

CWP No.28123 of 2018

Grievance of the petitioner in the present petition is for
quashing the impugned letters dated 7.6.2018 (Annexure P-7)and
18.06.2018 (Annexure P-9) whereby appointment of the petitioner without
any fault of his has been withheld with further writ in the nature of
mandamus directing the respondents to adjust him against one of the vacant
posts of Water Pump Operator Grade II and allow him to continue in
service.

Facts culminating into filing of the present writ petition are that

in response to advertisement No.7/2016 inviting applications online for filling up 681 posts of Water Pump Operator Grade-II under Category No.30, petitioner applied for the same under Economically Backward Person in General Category (EBPG). Out of 681 posts, 58 posts were reserved for EBPG Category. In response to aforementioned application, petitioner was issued roll number and after undergoing the process of interview etc., was issued appointment letter dated 8.1.2018 (Annexure P-5). After undergoing medical examination, petitioner joined on 10.01.2018 and continued to work, however, one of the unselected candidate namely Krishan challenged his ineligibility/non-selection in this Court vide CWP No.15035 of 2018 and this Court after taking into consideration reply, allowed the writ petition. Petitioner being last in merit of selection had to vacate the seat on the principle of last come first go.

Mr. Gopera, learned counsel appearing on behalf of the petitioner submitted that during the pendency of the writ petition, certain supervening facts have surfaced, which came to the light of the petitioner and vide misc. application No.14238 and 14239 of 2019 placed on record communications dated 25.06.2019 and 2.8.2019 i.e. Annexures P-15 and P-16 respectively whereby the Government in its wisdom decided to fill up the vacant posts falling vacant on account of resignation, non-joining etc. He has drawn attention of this Court to Annexure P-16, seniority list of waiting candidates under EBPG Category issued by Engineering Department, Haryana addressed to all Superintending Engineers to fill up posts from persons reflected in the waiting list. He submits that since department was legitimately expected to place name of the petitioner at No.1 in the waiting list, however, Annexure P-16 does not reflect his name

and therefore, predicament of the petitioner despite having been issued appointment letter is writ large.

Per contra, Mr. Kiran Pal Singh, AAG, Haryana relied upon contents of para 9 of the written statement to allege that Krishan Kumar was issued appointment letter being higher in merit than that of the petitioner and slipping downward of the petitioner. As far as contents of Annexure P-16 are concerned, feigned ignorance owing to lack of instructions.

I have heard learned counsel for the parties and appraised the paper book. The facts aforementioned are not in dispute i.e. advertisement, issuance of appointment letter and selection of the candidate Krishan Kumar. Contents of Annexure P-16 would reveal that Government has extended the life of waiting list but intriguingly after joining of Krishan Kumar in place of petitioner, respondents failed to reflect name of petitioner in the waiting list of candidates in EBPG Category.

I am of the view that the writ petition is liable to be disposed of with direction to respondents to consider candidature of the petitioner over and above the candidates reflected in the list of candidates, as he was last meritorious candidate before the decision rendered by this Court in the writ petition *ibid* titled as "*Krishan Vs. State of Haryana and others*", as and when respondents intend to fill up posts of Water Pump Operator Grade II under EBPG Category from waiting list. Let this exercise contemplated to be taken as per contents of Annexure P-16 within a period of two months.

(AMIT RAWAL)
JUDGE

September 27, 2019

Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No