

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

225-2 cases

CWP-10347 of 2020
Date of decision :- 02.11.2020

Rohit

...Petitioner

Versus

State of Haryana and others

...Respondents

AND

CWP-12514 of 2020

Ajay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Samrat Malik, Advocate for the petitioners.

Mr. Saurabh Girdhar, AAG, Haryana for the respondents.

SUVIR SEHGAL, J.(ORAL)

This order shall dispose of CWP-10347 of 2020 and CWP-
12514 of 2020 as common question of law and facts are involved in both the

cases. For the sake of convenience, facts are being extracted from CWP-10347 of 2020, Rohit vs State of Haryana and others.

Petitioner has approached this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus for directing the respondents to consider his claim for appointment as Constable with all consequential benefits from the date candidates lower in merit to the petitioner have been appointed and for a further declaration that instructions dated 13.09.2019, Annexure P-4, are not a hurdle in issuing of appointment letter to the petitioner.

Facts, in brief, are that the Haryana Staff Selection Commission declared the final result on 09.08.2019, Annexure P-1, in pursuance to advertisement No.08/2015 and recommended the name of the petitioner for the post of Male Constable (General Duty). The appointment letters were to be issued after the medical examination, which was conducted in January, 2020, wherein the petitioner was found to be medically fit. The character verification report of the petitioner was received by respondent No.3 on 21.01.2020. A letter dated 18.02.2020, Annexure P-2, was sent by respondent No.3 to the Director General of Police, Haryana (respondent No.2) seeking necessary directions regarding the joining of duty by the petitioner. In response, respondent No.2 informed that action be taken as per Government Instructions dated 13.09.2019, Annexure P-4. However, despite this communication, the petitioner was not offered the appointment to the post.

Upon notice, respondents filed their response and contested the petition on the ground that the petitioner was deputed for medical examination on 02.09.2019 but he did not appear before the Medical Board.

In January, 2020, the petitioner was inadvertently permitted to be medically examined, though he was found fit by the Medical Officer and his character was also verified. When he submitted an application dated 18.02.2020 to join, the matter was referred to the DGP, who advised that action be taken as per instructions dated 13.09.2019. The claim of the petitioner has been contested on the ground that as per instructions dated 13.09.2019, Annexure P-4, the petitioner was allowed a maximum of 30 days to join his new appointment but he failed to do so.

I have heard the counsel representing the parties and have gone through the paper books with their assistance.

The relevant extract of the Government instructions dated 13.09.2019, Annexure P-4, which require interpretation deserve to be noticed and are reproduced as under: -

“2. The matter has been reconsidered by Government and in supersession of all the above instructions, the policy on fixation of minimum and maximum joining time on first or subsequent appointment through HSSC or HPSC or any other approved recruitment agency shall be as under:-

(i) In case of fresh appointment of a candidate, he may be allowed the maximum period of 30 days to join his appointment.

(ii) In case a candidate, who being already in service in a private or Government organisation/department, is not able to join within 30 days or for bona fide reasons, the competent authority may, where the administrative requirements permit,

allow suitable extension of time which should not, however, exceed three months irrespective of duration of validity of waiting list.

(iii) For women candidates who are declared temporarily unfit on account of being pregnant, the joining time may be extended upto such period as is considered necessary provided not beyond six months from the date of confinement.

(iv) If a candidate, who is covered under (i), (ii) or (iii) above does not join within the period specified above, his/her selection made by HSSC, HPSC or any other approved recruitment agency will be deemed to have been cancelled without any further notice.

Necessary provision in this regard should be made by the appointing authorities at the time of issuance of appointment letter.

(v) Where the joining time is to be extended in public interest due to short supply of candidates e.g. Doctors, Engineers, etc. the case may be sent to General Administration Department for extension beyond the period specified above.”

A perusal of the instructions shows that a maximum period of 30 days has to be given to a new entrant to join service. This period is to commence from the date of issuance of appointment letter. However, there is nothing on the record to show that appointment letter was ever issued to the petitioner. Rather the facts show that no offer of appointment was ever

made and the petitioner had been called for medical examination in pursuance to a WAN (Wide Area Network)/Email dated 30.08.2019, Annexure R-1, issued by respondent No.3. A perusal of Annexure R-1 shows that it was a communication from respondent No.3 to the various Headquarters instructing them to inform the selected candidates, who had been named in the communication, to report in the office of respondent No.3 on 31.08.2019 along with the original documents. This communication cannot be called to be an offer of appointment as is being sought to be argued by the counsel for the respondents.

Similarly, in CWP-12514 of 2020, the communication dated 13.09.2019, Annexure R-1, addressed by respondent No.3 to the Superintendent of Police of different districts with instructions to inform the selected candidates to report at Police Headquarter, Panchkula, was also a PTM/WAN message, which was merely an inter-department communication. In both the writ petitions, no document/letter has been appended to show that any individual letter had been addressed to the petitioners asking them to join the service which could be called the offer of appointment.

In view of the above discussion, this Court has no hesitation in coming to the conclusion that as no offer of appointment was given to the petitioners to join the service and the period of 30 days as contemplated in the instructions dated 13.09.2019, Annexure P-4, cannot be said to have commenced.

Resultantly, both the writ petitions are disposed of with a direction to the respondents to issue letters of appointment to the petitioners

within a period of 30 days from today, offering them the appointment to the post upon completion of requisite formalities.

With these directions, the writ petitions stand disposed of.

(SUVIR SEHGAL)
JUDGE

Date of decision :- 02.11.2020
sheetal

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No