

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.11421 of 2020
Date of Decision : 07.08.2020

Kulwinder Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Veneet Sharma, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

2. Prayer in the petition under Articles 226/227 of the Constitution of India is for the issuance of a writ of Certiorari for quashing impugned order Annexure P/7, dated 15.07.2020 passed by respondent No.3 and further for the issuance of a writ of Mandamus for directing the respondents to allow the petitioner to continue on the post of Warder in terms of his appointment order Annexure P/4 dated 03.04.2018.

3. Learned counsel contends that the petitioner was selected and appointed as Warder on being placed at Serial No.714 of the merit list and now on acceptance of claim of another candidate, and said candidate having secured more marks than the petitioner, notice Annexure P-7, has been served on the petitioner as to why his services should not be terminated.

4. Learned counsel contends that the candidate at Serial No.715 of the merit list, who was also appointed as Warder, secured lesser marks

than the petitioner, therefore, if any person is to make way on acceptance

of claim of another candidate, it is candidate at Sr. No.715 and not 714.

5. Notice of motion.

6. Mr. Pankaj Gupta, Addl. A.G. Punjab, accepts notice on behalf of the respondent-State and states that the writ petition is premature as a perusal of Annexure P-7 dated 15.07.2020 reveals that the petitioner has been given one month's time to submit his defence to the show cause notice and that in the circumstances, the writ petition be disposed of by directing the petitioner to avail of his remedy of submitting defence to the show cause notice Annexure P-7 dated 15.07.2020.

7. Learned counsel for the petitioner states that he has no objection to filing defence to the show cause notice Annexure P-7, provided that protection is granted to enable him to approach this Court in case the decision in response to defence submitted by him to the show cause notice is adverse to his interest.

8. Learned Addl. A.G. Punjab states that he has no objection to the aforementioned course of action.

9. In the light of the position as noted above, the writ petition is disposed of by relegating the petitioner to avail of his remedy of filing defence to the show cause notice Annexure P-7 dated 15.07.2020 within two weeks from today. In the eventuality of decision taken pursuant to consideration of response to the show cause notice being adverse to the interest of the petitioner, the same be not acted upon for a period of two weeks from the date of service of the order on the petitioner to enable him to avail of his remedy in respect thereto, in accordance with law.

10. Writ petition disposed of in the aforementioned terms.

(B.S. Walia)
Judge

August 07, 2020
'ps/rajesh'

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