

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

LPA-7739-2018 (O&M)

Date of Decision: 20.01.2020

Piyush Kumar

... Appellant

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE JASWANT SINGH

HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Vijay Pal, Advocate for the applicant-appellant.

Ms. Shruti Jain Goyal, D.A.G. Haryana.

Mr. Teevar Sharma, Advocate
for respondent No.2.

None for private respondents No.4 to 7.

JASWANT SINGH, J. (Oral)

The present intra-court appeal under Letters Patents Act is directed against interim order dated 19.12.2018 passed by the learned Single Judge in CWP No.10689 of 2017 whereby interim stay order dated 4.8.2017 has been vacated.

In brief, the facts are that an advertisement was issued in October 2016 inviting application of eligible candidates for appointment to the solitary post of Medical Superintendent (in the General Category) in Kalpana Chawla Government Medical College, Karnal. The last date of possessing of the prescribed qualification and experience, as per the advertisement was 31.1.2017. One of the condition with regard to the age prescribed was that a candidate should not have been less than 40 years and more than 58 years of age. The appellant who belongs to the cadre of "HCMS" and was working on deputation as Deputy Medical Superintendent with Kalpana Chawla Government Medical College, Karnal applied alongwith other candidates. The records bears out that six of the applicants

were called for interview conducted on 31.03.2017.

The appellant filed the aforementioned writ petition seeking to restrain the respondents from finalizing the selection process as also for seeking a mandamus for quashing the candidature of the private respondents, who as per his claim, were ineligible to be considered for appointment. It was claimed that against one candidate, some judicial proceedings were pending. As regards other, it was submitted that they had crossed the age of 58 years at the time of considering their candidature/interview for appointment.

The stand of the officials respondents is that no ineligible person is being considered.

During the initial stage of the writ petition, learned Single Judge has issued notice of motion and thereafter passed an order dated 4.8.2017 whereby the declaration of the result was ordered to be stayed. However, upon an application moved by the official respondents, impugned order dated 19.12.2018 was passed whereby the order dated 4.8.2017 was modified to the effect that the declaration of the result was permitted, however, with a condition of being subject to the decision of the writ petition. The said order dated 19.12.2018 reads as under:

“CM-19231-CWP-2018

The application is allowed and the replication is taken on record subject to all just exceptions.”

CWP-10689-2017

After hearing counsel for the parties and perusal of the advertisement shows that one of the conditions of the advertisement was that as on 31.01.2017, the Medical Superintendent should not be less than 40 years and more than 58 years.

Counsel for the petitioner submits that any candidate

after 31.01.2017 has attained the age of 58 years and hence they will become ineligible for appointment. Further it is not in dispute between the parties that the Medical Superintendent has to work till attained the age of 65 years.

Counsel for the state submits that Medical Superintendent has to be below 58 years of age at the time of appointment. He can work till the age of 65 years. The cut off date for filling the applications was 31.01.2017 and all the candidates who appeared before this date was below 58 years of age. The only question is whether if during the process of selection, some candidates attained the age of 58 years. A perusal of the order dated 04.08.2017 shows that one writ petition No.6781 of 2017 has been filed by one of the candidate but he subsequently withdrew the matter and this Court had stayed the declaration of the final result till final orders.

This writ petition is pending since 2017 and keeping in view that all the candidates has to be eligible as on 31.01.2017. The direction is being given to the respondents to declare the result and the result will be subject to final decision of the petition.

Counsel for the State has further informed that Kalpna Chawla Medical Colleges is following the rules of PGIMS, Rohtak, for the purpose of recruitment and other service conditions on the next date of hearing. A better affidavit will be filed to clarify this aspect and State will also explain whether the notification dated 25.01.2007 issued by Health Department will be relevant.

Adjourned to 10.05.2019.”

It is the aforementioned order dated 19.12.2018 which has been impugned in the present Letter Patents Appeal.

The LPA Bench vide order dated 21.12.2018 passed in the present appeal had directed to maintain status quo as well as restrain the official respondents from declaring the results.

At the time of hearing today, learned State counsel points out that the petitioner on account of the aforesaid interim order dated 21.12.2018 prayed for adjourning the main writ petition to await the outcome of the present LPA whereby serious prejudice has been caused to the functioning of the said Medical College.

After arguing for some time and having failed to substantiate his case on merits, learned counsel for the appellant prays for permission to withdraw the present Letter Patents Appeal with a further direction to list the CWP-10689-2017 for early disposal of the same in accordance with law.

Learned counsel for the respondents do not object to such a prayer.

In view of the above, the present appeal is dismissed as withdrawn. However, Registry is directed to list CWP-10689-2017 before a learned Single Judge as per roster. It is hoped that the learned Single Judge, keeping in view of the urgency of the matter, would endeavour to dispose of the writ petition at the earliest. It is further clarified that during the pendency of the aforesaid CWP, the interim order dated 19.12.2018 passed by the learned Single Judge shall continue to operate.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

20.01.2020
rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No