

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP 13343 of 2017(O&M)
Reserved on : 29.11.2021
Date of pronouncement : 3.12.2021

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Jagdeep Kaushik

.....Petitioner

vs.

Union of India and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Anand Chhiber, Senior Advocate with
Mr. Deepak Vashishth, Advocate for the petitioner.

Mr. R.S. Malik, Advocate for respondent No.1
Union of India

Mr. Yashdeep Nain, Advocate for respondent No.5.

Mr. Sajjan Singh, Advocate for respondents No. 3 and 4.

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H. S. Madaan, J.

1. Briefly stated, facts of the case, as pleaded by the petitioner and as can be gathered from the record are that petitioner – Jagdeep Kaushik, had applied for the post of Superintendent in Chaudhry Ranbir Singh University, Jind, in response to the advertisement dated 17.6.2016. The petitioner appeared for the written examination and qualified the computer test. Accordingly in terms of the result declared on 2.10.2016, only three candidates were

selected and called for interview, which as a matter of fact was conducted on 3.10.2016. After interview, the result was declared. However, out of two candidates, one candidate did not join, resulting in leaving of one vacancy. On making an enquiry, the petitioner came to know that no waiting list had been prepared, which according to the petitioner was against general principle of law, showing arbitrary powers in the hands of officials of the University. Whereas with regard to other posts advertised, like those of Junior Engineers, waiting list had been prepared. According to the petitioner, different parameters have been set for selection of various posts, which is not permissible under the law and the Vice Chancellor is habitual of those mismanagement and malpractices. The petitioner had submitted various representations for consideration of his claim for the post of Superintendent, but to no effect, as such he has approached this Court craving for issuance of writ directing respondent No.4 – Vice Chancellor of Chaudhary Ranbir Singh University, Jind, Tehsil and District Jind, Haryana, to appoint the petitioner for the post of Superintendent, after considering the merit list and other essential qualifications required for the post.

2. On notice, the respondents put in appearance. Written reply was filed. Responding to the query raised in the order while issuing notice of motion, to the effect as to why name of the petitioner had not been considered for appointment to the post of Superintendent, pursuant to Advertisement dated 17.6.2016, it was contended that the respondent University had advertised two posts of

Superintendent (UR) vide advertisement dated 17.6.2016; that the selection was made as per the criteria adopted by the University, copy Annexure R-3/1; that the petitioner who had applied for the said post, had taken up the written and computer test, which he had cleared; that he alongwith five other candidates were called for interview; that the interview was conducted by Selection/Establishment Committee on 3.10.2016 and on the basis of marks for qualifications, experience and written and computer test and interview, the Selection/Establishment Committee recommended two candidates for appointment to the post of Superintendent, namely Satya Narain and Anoop Singh; that the petitioner after due consideration was not found fit to be recommended for appointment by the Selection Committee. Copy of the minutes of the Selection/Establishment Committee dated 3.10.2016 was attached as Annexure R-3/2; that selected candidates were duly offered appointment by the University and one of them have joined, no candidate was placed in the waiting list by the Selection/Establishment Committee; that the petitioner was duly considered for appointment to the post of Superintendent and his name was not recommended for appointment in a bona fide and fair manner. In the end, such respondents prayed for dismissal of the writ petition.

3. The petitioner had filed re-joinder, controverting the assertions in the written reply, reiterating the averments in the writ petition.

4. I have heard learned counsel for the parties besides

going through the record.

5. Learned counsel for the petitioner has contended that, with a vacancy being there and petitioner having cleared the test and otherwise eligible for appointment on merits, he deserves to be appointed against the vacancy, but respondents are intentionally refusing to do so.

6. Whereas, learned counsel appearing for the respondents has contended that no waiting list in this case was prepared, therefore, the petitioner cannot claim that in place of the candidate who had not joined, his name be considered for appointment because if some waiting list had been prepared, then on occurring of vacancy, the name appearing in the waiting list could be considered seniority-wise, but not otherwise. In support of his contention, learned counsel for the respondents has referred to the judgment **Shankarsan Dash vs. Union of India 1991 AIR (SC) 1612**, wherein it was observed that when the vacancies were notified and selection of candidates was made on the basis of competitive examination, the process of selection and appointment had been completed, however some candidates had not joined, a candidate whose name appeared in the merit list acquire no indefeasible right of appointment if a vacancy by non-joining of some candidate takes place. He has further referred to another judgment by a Single Bench of this Court, in **CWP No. 2326 of 2009 decided on 17.7.2009, titled Suresh Pal vs. State of Haryana and another**. It dealt with a case where the petitioner sought issuance of a direction to the respondents to appoint him to

the post of Assistant Engineer (Civil), for which he had applied and competed but that vacancy remained on account of non-acceptance of the offer by a selected candidate. The prayer was declined and the plea put forward on behalf of the petitioner that selection Board was required to prepare a waiting list in view of the Policy instructions, was not accepted. It was observed that petitioner has not been able to establish if any waiting list was prepared and merely because a waiting list was required to be prepared as per the instructions, would not mean that if the waiting list was not prepared initially, then the same should be prepared and merit seen at this stage.

7. In the instant case, it is specific stand of the respondents that no waiting list had been prepared. If it is so, then the petitioner cannot possibly ask for consideration of his name for appointment saying that on account of non-joining of a selected candidate, a vacancy is there. Merely because, the petitioner had been selected by the Section Committee, does not bestow upon him a valuable right for appointment. Even in the case of selected candidate, they have got a right of consideration for appointment and not right for appointment. Since no waiting list had been prepared by the Selection Committee, the Selection Committee had recommended two candidates for appointment, namely, Satya Narain and Anoop Singh. Respondent No.5 in the written statement filed has taken up a specific plea that the petitioner was not qualified for the post of Superintendent in as much as he did not have required qualifications for selection to the post of Superintendent i.e. 10 years experience in

a University/Examining Body, out of which 3 years experience as Deputy Superintendent. The petitioner was working in a private college, which did not come within the definition of University/Examining Body. That could be one of the reasons for not appointing the petitioner against the vacancy. Under the circumstances, the petitioner cannot claim appointment against the vacancy.

8. The writ petition is found to be without any merit and is dismissed accordingly.

3.12.2021
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes/ No

Whether reportable Yes/ No