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

CWP-2001-2019 (O&M)

Date of decision: May 26, 2022

Neelam

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arun Luthra, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

Mr. Pardeep Solath, Advocate for respondent No.2.

Ms. Aarti Sharma, Advocate for

Mr. D.P. Bajwa, Advocate for respondents No.3 and 4.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of Certiorari for quashing order dated 17.01.2019 (Annexure P-7) passed by respondent No.2 whereby candidature of the petitioner has been wrongly rejected for the posts of District Child Welfare Officer (District Cadre) and Programme Officer (District Cadre and Headquarters Cadre). Further a writ in the nature of Mandamus has been sought directing respondent No.2 to appoint the petitioner on the posts of District Child Welfare Officer (District Cadre) and Programme Officer (District Cadre and Headquarters Cadre).

2. Pursuant to notification dated 01.11.2017 (Annexure P-1), petitioner applied for the aforesaid posts of District Child Welfare Officer (District Cadre) and Programme Officers (District Cadre and Headquarters

Cadre) as she fulfilled all the terms and conditions. Petitioner appeared for the interview on 31.12.2017 and her candidature was considered for both the posts. Result was declared and her name figured at Sr. No.3 in the waiting list for the post of District Child Welfare Officer (District Cadre) and at Sr. No.2 in the waiting list for the post of Programme Officer (District Cadre). Petitioner came to know that Governor-President has promoted five officers from the post of District Child Welfare Officer to the post of Divisional Child Welfare Officer (District Cadre). Petitioner requested respondent No.2 vide representation dated 19.09.2018 (Annexure P-5) to consider her candidature sympathetically for any vacant post. Respondent No.2 issued a speaking order dated 17.01.2019 (Annexure P-7) rejecting the claim of the petitioner, which has been placed on record on 18.01.2019 in CWP-27183-2018 preferred by the petitioner. Petitioner withdrew the said petition, to challenge the speaking order dated 17.01.2019 (Annexure P-7). Hence, the present petition.

3. I have heard learned counsel for the parties and perused the record.

4. In the return dated 23.06.2020 filed by respondent No.2, following stand has been taken in Para-2: -

“xxxxxxxx. The petitioner applied for the post of District Child Welfare Officer (District Cadre) and Programme Officer (District Cadre). After selection process, the result was declared on 24.01.2018 (Annexure P-3 colly). The petitioner was placed in the waiting list at Sr. No.3 for the post of District Child Welfare Officer (District Cadre) and at Sr. No.2 in the waiting list for the post of Programme Officer (District Cadre). All the selected candidates joined and therefore, no post left vacant for the waiting list candidates. Therefore, the present writ petition is without any cause of action and deserves to be dismissed with

cost. A copy of the advertisement dated 01.11.2017 is attached herewith as Annexure R-2/1.”

5. From the aforesaid, it is thus clear that as far as merit of the petitioner is concerned, she is at Sr. No.3 & Sr. No.2 in the waiting list for the respective posts and her claim cannot be considered unless the candidates above her are first given the offer of appointment, subject of course to the availability of vacancy.

6. Accordingly, there is no room for interference by this Court since the merit list prepared by the Department pursuant to the selection process is not under challenge.

7. At this stage, learned counsel for the petitioner submits that there is requirement of posts which are still lying vacant and the petitioner may be given opportunity to make a representation and in case, she is found meritorious *qua* the same, respondents may consider her claim. The petitioners may do so. Respondents are at liberty to entertain the representation to be filed by the petitioner in accordance with law.

8. Disposed of, accordingly.

(ARUN MONGA)
JUDGE

May 26, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No