

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

CWP-11099-2001 (O&M)

Date of decision: July 04, 2022

Hari Parshad and another

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus commanding the respondents to appoint the petitioners as District Attorneys in the Prosecution Department of Government of Haryana, after duly considering them, if they are found eligible for the said post, being on waiting list of the selected candidates, which was prepared by the respondents after making selection of District Attorneys as per advertisement dated 16.02.2000 (Annexure P-1) issued by the Haryana Public Service Commission.

2. Petition was admitted for hearing in the year 2001.

3. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, either it has been rendered infructuous or even otherwise the petitioners seem to have lost interest in pursuing the same.

4. In any case, from perusal of record/pleadings, it appears that even on merits, claim of the petitioners is not admissible. Reference may be had in particular to the stand taken in Paras-6 & 7 of reply on merits of the reply filed by respondent No.2-Haryana Public Service Commission. One Shri Ashwani Kumar did not join as District Attorney who was selected in the HCS (Judicial). Therefore, one out of three posts of the District Attorneys in General category advertised by the answering respondents fell vacant. One Neeraj Khush filed a writ petition seeking appointment to the post of District Attorney. Said writ petition stands admitted. During pendency of said writ proceedings, he was given appointment to the said post.

5. The grievance of the petitioners is that whenever any vacancy for the post of District Attorney arises within the interregnum period of one year commencing from the date of recommendation of Public Service Commission, the same is to be filled in from the waiting list. The argument is not sustainable and is against the Regulations framed by the State as the waiting list is to be prepared upto 25% in respect of 25 vacancies advertised only. Three posts of District Attorney under General Category were advertised and accordingly, waiting list was prepared for one post only, which was filled up and is no longer vacant. According to clause 50 of the Regulations, the Department is to complete the process of filling up the vacancies within a period of 6 months to the extent of advertised posts only and therefore, appointment cannot be made beyond the posts advertised. No right is vested with the petitioners, which is pleaded to be taken away.

6. Moreover, the petitioners are not entitled to be appointed against the vacancies which might have arisen on account of the retirement of

incumbents but which have not been advertised vide advertisement dated 16.02.2000 (Annexure P-1) in accordance with instructions dated 28.10.1993 only amended vide letter dated 17.02.1998 (Annexure R-1). Even the original list prepared by the Commission shall be valid for a period of 6 months and Department is to complete the process of filling up the posts to the extent of posts advertised within a period of six months and validity of select list shall expire after six months and not one year as claimed by the petitioners. Also appointment shall be made from the waiting list only if any candidate from the original list does not join services or any vacancy from that list is not filled for any reason. Thus, the claim is totally misplaced as no person can be appointed against the post which was not subject matter of the advertisement.

7. Learned State counsel has canvassed arguments on similar lines as per the defense taken in the written statement.

8. I am in agreement with the stand taken by the respondents. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

9. In view of the aforesaid, no grounds are made out to interfere.

10. Dismissed.

(ARUN MONGA)
JUDGE

July 04, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No