

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

**CWP-16498-2022**  
**Date of Decision: 01.08.2022**

Deepak Gakhar

..... Petitioner

Versus

Municipal Corporation, Chandigarh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present :     Mr. Karan Singla, Advocate,  
                     for the petitioner.

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**RAJBIR SEHRAWAT, J. (ORAL)**

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondent to consider the case of the petitioner for appointment to the post of Computer Programmer, Group B, in the scale of 10,300-34,800+4200 GP; being the most meritorious candidate available for selection and appointment.

The case of the petitioner, in nut shell, is that the petitioner is having a degree of Bachelor of Technology from the I.K.Gujral Punjab Technical University, Jalandhar. He is also having experience working with several institutes. The respondent had issued a recruitment notice for the above-said post vide advertisement No.1857 dated 26.03.2021. The selection was prescribed to be made on the basis of merit obtained by the candidates in the written test. The petitioner stood at serial No.2 in the merit list of the written test. The person at serial No.1 did not join the post. Hence, the petitioner was required to be offered the appointment by the

respondent. However, the respondent has not offered the appointment to the petitioner. Rather, the petitioner has come to know that the appointment has been offered to a person at serial No.5. Hence, the present writ petition.

Notice of motion.

Mr. Sanjiv Ghai, Advocate, accepts notice on behalf of the respondent.

Learned counsel for the petitioner has submitted that, as mentioned above, the selection was to be made only on the basis of merit in the written test. Undisputedly, the petitioner has obtained second position in the merit of the written test. But, at the time of the verification of the documents, the respondent had taken an adverse view qua the eligibility of the petitioner on account of alleged lack of experience. However, no communication was made to the petitioner in writing. But the petitioner does possess the necessary experience and the certificates to that effect were duly produced by the petitioner. Hence, he has a right to be appointed. On the contrary, the respondent has offered the appointment to a candidate, who is lower in merit in the written test. Therefore, the petition deserves to be allowed and the petitioner deserves to be appointed as per his merit.

On the other hand, learned counsel for the respondent has submitted that the recruitment was for the post of Computer Programmer. The petitioner is not having the requisite experience of three years in computer programming, which was mandatory requirement. Learned counsel has further submitted that the petitioner had furnished certificate issued by the PGIMER, Chandigarh, which only referred to looking after all

IT infrastructure of Ayushman Bharat Cell of the Institute. This certificate does not talk about the computer programming experience of the petitioner. Moreover, the appointment of the petitioner at PGIMER, Chandigarh was only as a “Arogya Mitra” and not as a programmer. Learned counsel for the respondent has further submitted that to make up the deficiency in the experience, the petitioner had produced another certificate dated 08.01.2017 issued by one 'INX Infotec', but after the cut-off date. It is further submitted that, interestingly, this certificate shows that the petitioner was gaining experience even at the time when he, admittedly, was undergoing the degree course as a regular student. Hence, this certificate has rightly been rejected by the respondent.

Having heard the learned counsel for the parties, this Court finds substance in the arguments raised by the learned counsel for the respondent. Although, it is not disputed that the petitioner has secured second position in the merit of the written test and that the person at serial No.1 has not come forward to join the post after his selection, however, as per the procedure of selection, the merit of the candidate was subject to his eligibility, which was to be determined after the written test had been held; and it was to be finalized after verification of the documents claimed by him while uploading his application form. In case of the petitioner, the respondent had found at the stage of verification of the documents, that the experience of the petitioner was not of the type and for the period which was required as per the regulations and as per the advertisement issued for the post. The perusal of the certificate produced by the petitioner itself shows

that the experience is not specifically in the field of programming. Even the certificate issued by 'INX Infotech', undisputedly, was submitted after the date of verification of the documents. Therefore, irrespective of its validity, the respondent cannot be faulted for ignoring this certificate.

On the other hand, as per the record, the candidate who is being offered the appointment is, undisputedly having the experience of programming from the reputed institutes like DRDO and the AIIMS, Raebareli. Her experience is specifically certified to be as a programmer. Therefore, no fault can be found in the action of the respondent in offering the appointment to her, who happens to be the next candidate in merit.

In view of the above, finding no merit in the present petition, the same is, hereby, dismissed.

(RAJBIR SEHRAWAT)  
JUDGE

01.08.2022  
adhikari

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |