

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CWP-16518-2017
Date of decision : 22.07.2022

KRISHAN KUMAR

..... Petitioner

VERSUS

STATE OF HARYANA AND ORS

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Kanwal Goyal, Advocate
for respondent No.2.

HARSIMRAN SINGH SETHI, J. (Oral)

Learned counsel for the petitioner submits that the petitioner is claiming one of the two posts advertised by the respondents in the cadre of Assistant Professor (Physical Education) in the category of ex-serviceman. Learned counsel for the petitioner concedes while arguing that the petitioner was not in the merit list which was declared by the respondents against the two posts and the claim of the petitioner has been raised only on the basis of details of the marks secured by all the candidates who competed. Learned counsel submits that the petitioner, as per the said details, stands at merit list No.5 whereas only two posts were advertised.

After notice of motion, the respondents have stated that being a Class-I post, there is no waiting list which is to be published for the said post and if, any candidate, who has been selected against the post does not join, the said post has to be advertised again. Learned counsel for the respondents relies upon the instructions issued by the Government of Haryana in the said regard.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, it is conceded case that there were two posts which were advertised in the ex serviceman category in the cadre of Assistant Professor (Physical Education) and the petitioner was not declared successful against the advertised post and he was not shown as a selected candidate against the two posts advertised, no challenge can be raised by the petitioner at this stage to claim one of the advertised post on the ground that the candidates, who are higher in merit are either ineligible or are not entitled for the grant of appointment on one ground or the other.

Once there is no waiting list, which has been published and the name of the petitioner is not in the list of the candidates selected, the petitioner does not have any right to claim the appointment at all. The question of law raised in the present petition is whether an employee is bound to publish a waiting list and if a candidate can demand the issuance of one. Hon'ble Supreme Court of India in **Civil Appeal No.2473 of 2022 decided on 19.02.2022 titled Vallampati Sathish Babu Vs. The State of Andhra Pradesh and others** has held that the State is not under obligation to prepare a waiting list so as to fill the unfilled posts. That being so the claim of the petitioner which is being raised herein especially when the petitioner

was not declared successful in the select list, no relief can be granted to the petitioner in the present petition.

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

22.07.2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No