

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

CWP NO. 20693 OF 2017

DATE OF DECISION : 20.04.2022

Dr. Akhil Mahajan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Abhishek Sethi, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Dr. Neha Awasthi, Advocate,
for respondent No.2-HPSC.

Mr. R. Kartikeya, Advocate,
for respondent No.3.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner, serving as Medical Officer in ESI Hospital, Faridabad at the time of filing the petition was primarily two-fold : a) Issue a writ in the nature of certiorari quashing the result declared by the respondent-Haryana Public Service Commission (hereinafter referred to as "HPSC"), whereby private respondents No.3 and 4 were selected directly to the post of Senior Medical Officer in ESI Healthcare Department, *inter alia*, alleging that they did not possess the requisite qualification, as detailed in the advertisement dated 28.04.2014 (Annexure P-1); b) Issue a writ in the nature of mandamus directing the official respondents to notify the Service Rules of Haryana Civil Medical

Services (Group-A) for Employees State Insurance Health Care, Haryana.

For seeking such a mandamus, the petitioner placed reliance on the recommendations dated 21.06.2017 (Annexure P-13) given by a special Committee constituted by the respondent-State for the said purpose.

2. At the time of issuance of notice of motion, my learned brother Amol Rattan Singh, J. then seized of the matter had passed the following order on 13.08.2017:

“ As regards the question of quashing the result of the selection process for the posts of Senior Medical Officers in the ESI Healthcare of the Labour Department, Haryana dated 6.8.2014 (Annexure P-5), the prayer of the petitioner is rejected at the threshold, he having approached this Court more than 3 years after the declaration of the said result. Even though learned counsel for the petitioner has tried to justify the delay by stating that the information with regard to the criteria framed by the respondents in the selection process was received only on 3.3.2015, however, that too is 2 years and 6 months ago.

Consequently, vested rights having accrued in those who have been recruited about 3 years ago and despite information received under RTI Act, 2005, about 2 years and 6 months ago, he having slept over his rights, the petition as regards the first prayer is dismissed.

Learned counsel yet submits that a similar writ petition is already pending challenging the same result, bearing CWP No.11924 of 2015, and therefore, the petitioner herein may be granted liberty to file an appropriate application seeking to be impleaded as a party in that petition.

Obviously, if any such application is filed in the aforesaid writ petition, it would be considered wholly on its own merits at the time when it is filed.

As regards the second prayer made in this petition, by which a writ of mandamus is sought, directing the official respondents to notify the service rules, i.e. the Haryana Civil Medical (Group-A) Service Rules, 2014, for the employees of the State Insurance Healthcare, Haryana, notice is issued to the respondents, returnable on 20.12.2017.”

3. *Apropos* above, it is thus clear that what survives as on today is merely an issue with regard to notifying the Service Rules.

4. On a Court query, learned State counsel submits that same is under active consideration and the entire process shall be taken to its logical conclusion in due course, including getting the concurrence from concerned other departments as well as HPSC.

5. In fact what is canvassed by learned State counsel is borne out from the stand taken in para 5 of the return, which is as below:

“5. That various meetings of said Committee were held for framing of the Service Rule (Group-A) and it was decided to formulate the draft of service rules. A draft of service rules was prepared and placed up before the Committee in its meeting held on 15.12.2017. Out of six members, 5 members and chairperson had consensus over the draft of service rules. However, the petitioner being member of the Committee raised certain objections to the proposed service rules.”

6. In view of the aforesaid, the writ petition is disposed of with an expectation that the respondents shall take appropriate steps by notifying the Rules so as to avoid heartburn among those who feel aggrieved in the absence of any service rules applicable to them, including the petitioner.

7. Let the needful be done as expeditiously as possible but not later than six months from today.

APRIL 20, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**