

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

CWP-3864-2014

Reserved on 01.12.2022

Date of Decision: 08.12.2022

Ashwani Chander

.... Petitioner

Versus

Guru Angad Dev Veterinary and Animal Sciences University and another
.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajinder Kumar Singla, Advocate, for the petitioner.

Mr. B.S. Khehar, Advocate, for the respondents.

JAISHREE THAKUR.J

1. The petitioner herein has approached this Court seeking directions to the respondents to appoint him to the post of Senior Radiographer being fully eligible for the said post.
2. The brief facts of the case are that respondent No.1-Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana, advertised various posts including two posts of Senior Radiographer, vide advertisement No.02/2012. The petitioner, claiming to be fully eligible, participated in the selection process. Against the said two posts, 20 applications were received and after scrutiny and interview, the Select Committee found three applicants in order of merit. Petitioner was one of them who stood at second position. Their names were sent for approval to the competent authority. However, the competent authority approved to fill up only one post.

3. The grievance of the petitioner is that despite the fact that there were two posts advertised and he got second position in the order of merit, he was denied appointment illegally.

4. Learned counsel appearing on behalf of the petitioner would contend that the competent authority gave no reasons for not giving approval to fulfill the second post. It is submitted that in order to give extension in service to one Subhash who was going to retire from the post of Senior Radiographer, the respondent-University did not approve to fill the second post. It is contended that grant of extension to a person in service at the cost of career of the petitioner, is not justified.

5. On the other hand, counsel appearing on behalf of the respondents would submit that against two posts of Senior Radiographer, the Select Committee recommended three persons i.e. Harmesh Lal, Ashwani Chander (petitioner herein) and one Sumir Gill. Harmesh Lal scored 83, the petitioner scored 69 and the third one scored 65 marks out of 100. It is submitted that since the score of the petitioner and Sumir Gill was far behind than Harmesh Lal, the competent authority took a decision to approve only one post. Moreover, as per advertisement No.02/2012, the respondent-University had the right to increase or decrease or withdraw any post.

6. I have heard learned counsel for the petitioner as well as learned counsel appearing on behalf of respondents and have gone through the pleadings of the case.

7. The petitioner is claiming the right of being appointed against the second post advertised having scored the second highest marks. Admittedly, against the two posts advertised for the post of Senior

Radiographer, the petitioner stood second in the order of merit, however, the competent authority approved only one post to fill up against the two posts considering the fact that there was much difference in the score of the candidate(s) than the score of the person who stood first in the order of merit. The principle is well settled that mere selection does not confer an indefeasible right upon the candidate to compel the employer to give him appointment. In this regard reference can be made to the judgments rendered by the Constitutional Bench of the Supreme Court in ***Shankarsan Dash Versus Union of India 1991 AIR (Supreme Court) 1612*** and in ***State of Bihar Versus Secretary Assistant Successful and Examinees, 1994(3) RSJ 604; Union of India Versus S.S. Uppal, AIR 1996 SC 2340; Hanman Prasad Versus Union of India, 1996 (10) SCC 742; Bihar Public Service Commission and others Versus State of Bihar and others, AIR 1997 SC 2280; Syndicate Bank and others Versus Shanker Paul and others, AIR 1997 SC 2091; Vice Chancellor University of Allahabad Versus Dr. Anand Parkash Mishra and others, 1997(3) SCT 588; Punjab State Electricity Board Versus Seema, 1999 SCC (L&S) 629; All India SC & ST Employees Association Versus A. Arthur Jeen, 2001(2) SCT 737; Vinodan T. Versus University of Calikut, 2002(2) SCT 1046; S. Renuka Versus State of Andhra Pradesh and others, 2002(2) SCT 568 and Baitariani Gramiya Bank Versus Pallab Kumar and others, AIR 2000 SC 4248.***

8. It is imperative upon the employer to see as to whether the candidates, those have applied and come on the select list, had adequate merit. The difference between the person who had secured first position and the petitioner was almost of 14 marks which prompted the respondents not to fill up

the second vacancy, especially when the advertisement itself stated that the respondents had reserved a right to increase or decrease the posts so advertised. The petitioner would have had a cause of action in case a person having lesser marks than him had been appointed, but that is not the case herein. Merit cannot be compromised under any circumstance.

9. The judgments as relied upon by the petitioner in *Asha Kaul Versus State of Jammu and Kashmir, 1993(2) SCC 573* and in *CWP No.25920 of 2017, Gaurav Kumar Versus Central University of Haryana and others, decided on 07.09.2022* are distinguishable on facts and hence not applicable to the facts of the present case.

10. Consequently, the writ petition, being devoid of merit, is hereby dismissed.

(JAISHREE THAKUR)
JUDGE

08.12.2022

sanjeev

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No