

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25133-2021 (O&M)

Date of Decision: January 20, 2022

Satish Chauhan

..... Petitioner(s)

Versus

State of Haryana and another

..... Respondent(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Virender Kumar, Advocate
for the petitioner.

Mr. Harish Nain, A.A.G., Haryana,
for respondent no.1.

Ms. Shubhra Singh, Advocate
for respondent no.2.

LISA GILL, J. (Oral)

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

Petitioner, who is stated to be holding the current duty charge of Sub-Divisional Engineer, Haryana Tourism Corporation Limited since January, 2013, has filed this writ petition, being aggrieved of the action of the respondent-Corporation in seeking to fill-up the posts of Sub-Divisional Engineer (Civil) by deputation.

Learned counsel for the petitioner submits that there are three posts of Sub-Divisional Engineer and petitioner is fully eligible and entitled for promotion to the said post. While referring to the applicable Rules,

learned counsel for the petitioner submits that the posts in any case cannot be filled by way of deputation. Moreover, once employees of the Corporation are available for appointment through promotion, filling of the posts through deputation, it is submitted, is illegal, unjustified and uncalled for. Learned counsel further submits that petitioner has been discharging his duties on the post of Sub-Divisional Engineer (current duty charge) in a satisfactory manner since the year 2013 and is due to retire in June, 2022, therefore, action of the respondent-Corporation in seeking approval for posting of an employee on the post of Sub-Divisional Engineer on deputation vide the impugned communication dated 09.11.2021 (Annexure P-16) is totally unjustified. Learned counsel submits that one of the petitioner's junior namely Suresh Kumar filed CWP-25340-2021, seeking quashing of said communication dated 09.11.2021, which was disposed of on 14.12.2021 with a direction to the competent authority to decide representation submitted by Suresh Kumar, in accordance with law. Learned counsel submits that manifest injustice shall be caused in case a person is appointed on deputation to the post of Sub-Divisional Engineer in the manner as above without even looking into the petitioner's representation. He relies upon order dated 05.07.2019 in CWP-17874-2019 (Annexure P-20) to substantiate his case.

At this stage, learned counsel for the petitioner restricts his prayer for a decision on representation dated 08.11.2021 (Annexure P-18) submitted by the petitioner, in a time bound manner and that till a final decision is taken on petitioner's representation, the process of filling up the posts in question through deputation be kept in abeyance.

Notice of motion.

Mr. Harish Nain, A.A.G., Haryana, accepts notice on behalf of respondent no.1 and Ms. Shubhra Singh, Advocate, accepts notice on behalf of respondent no.2. Learned counsel for the respondents do not raise any serious objection to the limited prayer addressed.

Keeping in view the facts and circumstances of the case, but without any expression of opinion on the merits of the controversy, this writ petition is disposed of with a direction to the competent authority to decide petitioner's representation dated 08.11.2021 (Annexure P-18), within a period of four weeks from receipt of certified copy of this order.

Till then process of filling-up the post in question through deputation be kept in abeyance.

20.01.2022

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No