

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

**CWP-320-2023 (O&M)
Date of decision : 19.01.2023**

Sukhmander Singh and othersPetitioners

Versus

Punjab State Seed Certification Authority and othersRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Puneet Gupta, Advocate
for the petitioners.

Mr. Charanpreet Singh, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

The petitioners have invoked writ jurisdiction of this Court by way of present writ petition filed under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of certiorari and quo-warranto seeking quashing of the action of respondent No.1 whereby additional charge of the post of Regional Seed Certification Officer is alleged to have been given to respondents No.2 to 4 which the petitioners claim were the usurpers of public posts being ineligible as per the Rules.

2. Short reply by way of respondent No.1 has been filed today in Court. The same is taken on record.

3. No order of appointment was appended with the instant writ petition. Resultantly on 9th of January, 2023, following order was passed :-

“The petitioners asserts that respondents No.2 to 4 have

been appointed as Regional Seed Certification Officers on deputation in the teeth of rules which was placed by the Director Punjab State Seed Certification Authority by way of affidavit in CWP No.19776 of 2013, though no such order of appointment has been placed on record.

Ld. Counsel for the petitioners emphatically asserts that in fact the *modus operandi* is to allow the appointment by way of deputation without passing any order.

State Counsel to ascertain the factual position and to seek instructions *vis-a-vis* averments made in Para No.14 of the writ petition.

Adjourned to 13th of January, 2023.”

4. Counsel for the petitioners refers to relevant Rules to contend that the post in question i.e. of Regional Seed Certification Officer as per the Rules can only be filled from amongst the Seed Certification Officers having experience of working as such on regular basis for a minimum period of 8 years and should possess degree in M.Sc. in Agriculture from any recognized University or Institution. Relying thereupon he submits that their source of the recruitment is only by way of promotion and not by deputation. Resultantly, the appointment of private respondents being in the teeth of Rules deserves to be quashed.

5. The stand taken by respondent No.1 reads as under :-

“4. That as far as the orders regarding the appointment of Respondents no.2 to 4 are concerned, the Respondent no.1, on account of unavailability of eligible candidates within the corporation for appointment as RSCO, had requested the Department of Agriculture to send two officers on deputation for the same. The Department of Agriculture did not sent the officers

named in the letter by Respondent no.1. The above-mentioned Letter is annexed hereafter as **ANNEXURE A-1**.

Instead, Respondents no.2 to 4 were sent as Officers on deputation to serve as RSCOs in the present Corporation. The question of favouritism does not arise at all as the names of Respondents no.2 to 4 were not suggested by the Respondent no.1. Rather, they were sent by the Department of Agriculture following its internal mechanism for the same.”

6. Admittedly, the petitioners herein are not working as Seed Certification Officers but are working as Seed Certification Assistants though granted additional charge of Regional Seed Certification Officers vide Annexures P-3 to P-6. The question that arises in the present writ petition would be : *“where the Rule does not prescribe for deputation and the only source for recruitment is by way of promotion, can employer be asked to wait and keep the promotional post vacant while faced with the exigencies where no eligible person is available in the feeder cadre or can he resort to other sources like deputation for effective working?”*.

6. In the considered opinion of this Court, the definite answer will be 'Yes'. The employer in order to meet such exigency will be well within its right to fill the post by way of deputation when admittedly no person is available in the feeder cadre to be appointed by way of promotion. Needless to say in case any person becomes eligible in the feeder cadre for appointment by way of promotion, the employer as per Rules will be under obligation to consider him for the post of promotion. Keeping in view that in the present case admittedly none of the petitioners is working in the

feeder cadre, no reason to interfere in the impugned action of the respondent is made out.

7. Consequently, the present writ petition is dismissed.

January 19, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No