

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13148 of 2012 (O&M)

Date of decision: 06.01.2023

Surinder Singh Dhillon

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Kumar Chopra, Sr. Advocate, with
Mr. Vidul Kapoor, Advocate,
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab

Mr. P.S.Khurana, Advocate
for respondent no.7.

ANIL KSHETARPAL, J(Oral)

1. This writ petition has come up for final disposal after a period of more than 10 years from the date of its institution.

2. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the selection of respondent no.7-Sh. J.P. Singh to the post of Punjab Civil Service (Executive Branch) Class-I (hereinafter referred to as PCS (Class-I). The petitioner also prays for the issuance of a writ in the nature of mandamus to direct respondent no.1 to 3 to make a fresh appointment after interviewing the candidates afresh.

3. The selection to the aforesaid post is governed by the Punjab Civil Service (Executive Branch) (Class I) Rules 1976, which were amended in the year 2011.

4. As per the aforesaid rules, there are various sources from which the selection is made to the post of PCS (Class-I). In the present case, this Bench is concerned with the Register A-III which is provided in the Rule No. 8 of the aforesaid rules. Sub Clause (3) thereof reads as under:-

(3) Register A-III in which shall be entered the names of persons accepted as candidates from amongst the Assistant Excise and Taxation Commissioners, the Excise and Taxation Officers and the District Development and Panchayat Officers and the Block Development and Panchayat Officers serving in connection with the affairs of the State of Punjab; and”

5. The learned senior counsel representing the petitioner has also drawn the attention of the Court to Rule 11 which provides for the selection of the candidates for Register A-III and the preparation of list. The same is extracted as under:-

“11. Selection of candidates for Register A-III

(1) The Financial Commissioner, Taxation shall prepare a list of eligible Assistant Excise and Taxation Commissioners and Excise and Taxation Officers in order of seniority. The Financial Commissioner Rural Development and Panchayats shall also prepare seniority wise list of eligible District Development and Panchayat Officers and the Block Development and Panchayat Officers, keeping in view the guidelines issued in this behalf by the Government:

Provided that the list prepared by the Financial Commissioner, Taxation and the Financial Commissioner Rural Development and Panchayats shall not contain names exceeding thrice the number of candidates to be brought on Register A-III.

(2) The list prepared by the Financial Commissioner, Taxation and Financial Commissioner, Rural Development and Panchayats under sub-rule (1), shall be

submitted to the Chief Secretary for onward transmission to the Commission.

(3) The name of a person shall not included in the final list unless he-

"(a) is a confirmed hand and has completed eight years service either as the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer or as Assistant Excise and Taxation Commissioner and Excise and Taxation Officer taken together,

(b) is a confirmed hand and has completed eight year's service either as the District Development and Panchayat Officer or the Block Development and Panchayat Officer or as District Development and Panchayat Officer and Block Development and Panchayat Officer taken together;

(c) was under the age of fifty four years on the first day of November immediately preceding the date of submission of names by the concerned authorities; and (d) is a graduate of a recognized severity

(4) Each year, at such time, as the Government may require the Financial Commissioner, Taxation shall submit the Government the list of eligible Assistant Excise and Taxation Commissioners and the Excise and Taxation Officers. The Financial Commissioner Rural Development and Panchayat shall submit to the Government the list of eligible District Development and Panchayat Officers and Block Development and Panchayat Officers as per sub-rule (1)

(5) The list of eligible persons submitted under sub-rule (4) alongwith the service records of the candidates, shall be forwarded by the Government to the Commission. The Commission shall make selection on merit-cum-seniority basis by adopting a procedure similar to that being followed by the Union Public Service Commission for the elevation of officers of State Service to All India Services by associating two representatives of the State Government one serving as Secretary, Personnel and General Administration and the other senior IAS officer nominated by the Chief Secretary to Government of Punjab:

Provided that the members of the Commission and representatives of the State Government involved in the

selection shall certify in respect of each candidates that they have no relation with him

(6) The names of persons recommended by the Commission under sub-rule (5), shall be entered in register A-ill in the order in which they are recommended by the Commission.”

6. The applications from the eligible candidates were invited pursuant to the recruitment notice dated 05.03.2001. For appointment under this category, the name of the candidate is to be forwarded by the concerned department from the candidates already in service. Pursuant to the recruitment notice, the name of the petitioner as well as respondent no.7 was recommended by the department. As per the recruitment notice, the recommendation was to be received within a period of 45 days from the date of recruitment notice but in no case later than 17.04.2001. Although, the petitioner has challenged the selection of respondent no.7 on various grounds, however, keeping in view the fact that respondent no.7 stands retired from the services on attaining the age of superannuation on 30.11.2015, the learned senior counsel representing the petitioner has restricted his arguments only on one issue i.e. respondent no.7 on the date of selection was working as Deputy Director, hence, is ineligible for the appointment to the PCS (Class-I)

7. In such circumstances, the issue which needs adjudication is “if there is a delay in finalizing the selection, whether the candidates, who are, in the meantime, on being promoted to a higher post as a matter of routine become ineligible to the appointment solely on account of their promotion to the higher post?”

8. The learned senior counsel representing the petitioner has read over Clause (3) of Rule 8 to contend that the appointment from Register A-

III can be made only from the officers serving in connection with the affairs of the State of Punjab on the post specified therein on the date of selection. He submits that since respondent no.7 was promoted to the post of Deputy Director in 2011, hence, he became ineligible to seek an appointment to PCS (Class-I).

9. On the other hand, the learned counsels representing the State of Punjab as well as respondent no.7 contend that the recruitment notice is with respect to the vacancies which arose before 2001. Hence, they submit that the selection was to be completed on the basis of eligibility on the last day of the application i.e 17.04.2001.

10. This Court has considered the submissions made by the learned counsels representing the parties and found that the petitioner has failed to make out a case for the issuance of a writ. The delay in selection is not attributable to respondent no.7. Secondly, the attention of the Court has not been drawn to any specific rule that the eligibility of the candidates is required to be examined as on the date of selection and not on the last date for submitting application. Moreover, once the applications have been invited and the selection process gets dragged for an inordinate amount of time, not due to the fault of the applicant, the candidate who have earned promotions cannot be debarred from seeking an appointment to a said post on the basis of application submitted by him within the prescribed time. In the recruitment rules, the word “serving” denotes that the last day of eligibility as per the recruitment notice. It means that the candidates should be serving in connection with the office of the State of Punjab on the posts specified therein on the last date of submitting the application pursuant to the recruitment notice.

11. Keeping in view the aforesaid discussion, finding no merit, the writ petition is dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

January 06, 2023
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(ANIL KSHETARPAL)
JUDGE

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