

CWP-23166-2015

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23166-2015

Reserved on 03.05.2023

Date of decision:- 08.05.2023

Patel Singh @ Subhash Chander

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Jasbir Singh Ahlawat, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana for respondents No.1 to 4.

None for respondent No.5.

Mr. Rajesh K. Dhankar, Advocate for respondent No.6.

SUVIR SEHGAL, J.

1. Instant writ petition has been filed *inter-alia* seeking issuance of a writ in the nature of certiorari for quashing the final selection list dated 06.03.2013, Annexure P-4 (Colly), issued by respondent No.3 for the post of Canal Guard in respect of Scheduled Caste category candidates. Another prayer has been made for quashing the appointment of private respondents No.5 and 6 to the post of Canal Guard.

2. Admitted facts are that by virtue of Advertisement dated 18.04.2011, Annexure P-1, applications were invited for 712 posts of Canal Guards. Petitioner, who belongs to the Bhiwani area, applied for the post in the Bhiwani Circle. He cleared the physical test and appeared in the interview. As per the impugned final result, Annexure P-4, respondents No.5 and 6 were selected for the post in the Scheduled Caste category.

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3. Counsel for the petitioner submits that as per Advertisement, Annexure P-1, there was Circle wise distribution of the posts and respondents No.5 and 6, who belong to Rohtak and Mahendragarh, have been illegally selected in the Scheduled Caste category on the post of Canal Guard in the Bhiwani Circle.

4. Upon notice, petition has been contested by the official respondents and private respondent No.6 by filing separate responses. By making a reference to the Advertisement, Annexure R-1, counsel representing the respondents submit that there was no restriction to the candidate from applying outside the Circle. It has been further submitted that both the private respondents have been selected on their merit.

5. I have heard counsel for the parties and considered their respective submissions.

6. Eligibility Condition No.4 to the Advertisement, Annexure R-1, provides as under:-

“4. HOW TO APPLY

Registration of candidates for recruitment shall begin on 16.05.2011 at the designated Selection Centre. All the eligible candidates may submit their application forms as per advertised Performa to the respective Selection Centre/S.E. the candidates were required to enclose a self addressed envelope with Rs.5/- postage stamp affixed on and two passport size photographs duly signed alongwith the application form. Application forms must be sent by registered post only to reach the Selection Centre/S.E. by 15.05.2011. Candidates outside of Haryana State and other than twelve-Selection Centre shall submit their applications at any one centre only of the above mentioned twelve-Selection Centre. One

candidate can apply at any one Selection Centre only.”

7. A perusal of the above shows that there was no restriction on candidate from applying anywhere outside the Circle. The only restriction in the Advertisement is that a candidate can apply for selection in only one Circle. The full text of the Advertisement has not been attached by the petitioner along with the writ petition, for reasons which are not difficult to fathom.

8. Still further, pursuant to an order passed by this Court on 09.11.2017, an affidavit 22.11.2017 has been filed by the Engineer-in-Chief, Irrigation and Water Resources Department, Haryana, wherein position has been clarified and it has been deposed as under:-

“4. That it is respectfully submitted that as per conditions of the advertisement a candidate can apply at any of the Centre for the recruitment (sic of the) irrespective of the fact whether he was a resident of that particular centre or not. It is also submitted that candidature of any candidate was not rejected on the ground that he had not applied at a correct centre as it was his own sweet will to apply at any of one centre as given in the advertisement.

5. That Sh. Pankaj Kumar respondent No.6 was selected as Canal Guard and joined at Bhiwani on 26.03.2013. The respondent No.6 Pankaj Kumar, Canal Guard worked in Siwani and Jui Water Services Divisions, Bhiwani of Yamuna Water Services Circle, Bhiwani from 26.03.2013 to 31.01.2017, i.e., 3 years, 10 months & 6 days approximately. Sh. Pankaj Kumar, Canal Guard on losing his seniority in present Circle was transferred to Sub Division, Mahendergarh of J.L.N. Circle Narnaul against vacancy vide the copy office letter No.78-81/A-

1/WC/2016 dated 13.1.2017 (Annexure R-A).

6. *That it is incorrect that he was posted to Narnaul immediately after the selection. As per terms and conditions mentioned in appointment letter issued to Sh. Pankaj Kumar, Canal Guard as well as to other candidates (Annexure R-B) in para No.6 that:*

“Your services can be utilized anywhere in the state/country including Bhakra and Beas Projects outside the state in which Haryana State in (sic has) interest”

7. *That it is further submitted that there is a provision in rule – 12 of Service Rules (Circle Cadre) Workmen Establishment-2012*

“A member of the Service shall be liable to serve at any place, whether within or outside the State of Haryana on being ordered so to do by the appointing authority.”

9. In view of the position, as is evident from the Advertisement as well as the affidavit reproduced above, there is no merit in the writ petition, which is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

08.05.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No