

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

[115]

CWP-16053-2023

Date of Decision: 04.08.2023

Neeraj Mehla and others

...Petitioners

Versus

National Institute of Technology Kurukshetra

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Keshav Pratap Singh, Advocate with
Mr. T.S. Dhull, Advocate for the petitioners.

Mr. A.S.Virk, Advocate for the
respondent-NIT.

JAGMOHAN BANSAL, J. (Oral)

1. On 31.07.2023, the following order was passed by this Court:-

“XXX XXXX XXXX XXXX XXX

The petitioners through instant petition under Article 226/227 of the Constitution of India are seeking setting aside of advertisement No.17 of 2023 (Annexure P-1) dated 28.06.2023, advertisement No.18 of 2023 (Annexure P-2) dated 28.06.2023 and also the selection process.

The grievance of the petitioners is that respondent in the advertisement has not disclosed number of posts available and their further bifurcation. Reservation policy is applicable to respondent, thus, every seat is not available for everyone. The respondent is supposed to disclose number of seats available under particular category i.e. unreserved/SC/ST/OBC/EWS. In the absence of disclosure of available posts as well as their further bifurcation, the

petitioners have been deprived from their rights to participate in the recruitment process.

Learned counsel for the respondent pointing out reply submits that institute-respondent has commenced process of recruitment under discipline 'Computer Engineering' and 'Information Technology'. There are five petitioners and only petitioner No.5 has applied under Information Technology. She has applied under unreserved category and as per record, no seat is vacant for unreserved category. The case of the petitioner No.5 cannot be considered because she has been found ineligible, however, it would not preclude her to apply afresh as and when she becomes eligible and posts gets vacant. As on day, neither there is available posts nor petitioner No.5 is eligible, thus, no prejudice has been caused to petitioner No.5.

The petitioners No.1 to 4 have applied under discipline 'Mechanical Engineering', 'Production and Industrial Engineering' or 'Electronic and Communication Engineering'. The institute has not commenced recruitment process qua these disciplines and case of petitioners would be considered as and when posts gets vacant and they are found eligible.

Learned counsel for the petitioners on being confronted with aforesaid facts submits that petitioners have applied against one advertisement whereas they would have applied against both the advertisements had seats being disclosed.

Learned counsel for the respondent seeks time to get instructions qua possibility to give opportunity to petitioners No.1 to 4 to apply against the second advertisement.”

2. Mr. A.S.Virk, learned counsel for the respondent-Institute produced a copy of Addendum to Advt. No.18/2023 wherein Institute has provided that the candidates who had applied against the rolling Advt. No.17/2023 (Assistant Professor Grade-I, Level-12) in various disciplines except Computer Engineering & Information Technology, are given an opportunity to give their willingness, if they wish their applications against rolling Advt. No.17/2023 (Assistant Professor Grade-12) be considered against rolling Advt. No.18/2023 (Assistant Professor Grade-II, Level-10) as well.

3. The Addendum to Advt. No.18/2023 is reproduced as below:-

“Addendum To Advt. No. 18/2023

In reference to Recruitment Notification No.Gen.-1/3795/2619 dated 28.06.2023 published in the newspapers as well as website of the Institute, the following points are hereby added in the General Conditions of the Advt. No.18/2023:

All the applicants who had applied against rolling Advt. No.17/2023 (Assistant Professor Grade-1, Level-12) in various disciplines except Computer Engineering and Information Technology in the 1st round till 21.07.2023, are hereby given an opportunity to give their willingness if they wish their application against rolling Advt. No.17/2023 (Assistant Professor Grade-1, Level-12) be considered against rolling Advt. No.18/2023 (Assistant Professor Grade-II, Level-10) as well. They may exercise this option latest by **05.08.2023 upto 11:59 p.m.** by logging into the recruitment portal using the same credentials and require to pay non-refundable application fee of Rs.2000/- for UR/OBC/EWS category & Rs.1000/- for SC/ST/PWBD category only through online mode.

For further details and submission of application through online mode, please visit Institute website: www.nitkr.ac.in.”

4. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

5. From the perusal of the above addendum, it is quite evident that the petitioners have been granted opportunity to give their option to consider them against Advt. No.18 apart from Advt. No.17. The petitioner No.5-Dr. Minakshi Sharma had applied against Information Technology Discipline and she has not been found eligible and even otherwise no unreserved post is available under Information Technology. Thus, there was no question of her selection. Petitioners No.1 to 4 had applied against Advt. No.17 and they have applied under different disciplines. In view of addendum, they are at liberty to give their option to be considered against Advt. No.18 as well. In this way, petitioner Nos.1 to 4 have been given full and fair opportunity to participate in the selection process.

6. The grievance of the petitioners that number of seats are not identified cannot be a ground to set aside the advertisement because no prejudice is going to be caused to them. There seems no mala fide on the part of the Institute. The respondent-Institute has issued rolling advertisement and every candidate is getting equal opportunity. There is no discrimination between two similarly situated candidates. As per Mr. Virk, as and when vacancy would be available, the candidates would be considered, if they have applied. The candidates are free to apply at any point of time and cut-off date is meant to create a block of particular candidates so that they may be considered at a particular point of time. The Level-10 and Level 12 are both permanent posts and none of these is contractual posts. There is difference of

only grade-pay between Level-10 and Level-12 otherwise both are permanent posts of ‘Assistant Professor.’ Accordingly, total numbers of posts have been advertised and no bifurcation among Level-10 and Level-12 posts have been made.

7. This Court does not find any ground to interfere and set aside impugned advertisement. The selection process cannot be stopped when petitioners have failed to point out how any prejudice is going to be caused to them. The petitioners are going to be considered under Level-10 as well as Level-12 and they have been granted liberty to apply under any discipline. Thus, there is no discrimination or prejudice.

8. The present writ petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

04.08.2023
Anjal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>