

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

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**CWP-2280-2018 (O&M)
Date of decision: 09.02.2023**

Suresh Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sachin Bansal, Advocate for
Mr. Raje Ram Kaushik, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

Mr. Kanwal Goyal, Advocate for respondent Nos. 2 and 3.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition filed under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of mandamus directing respondent No.3 to call the petitioner for interview for the post of Assistant Professor (College Cadre HAS-11) Economics.

The written statement filed by Deputy Secretary, Haryana Public Service Commission, on behalf of respondent Nos. 2 and 3 is already on record.

On 02.02.2018, learned counsel for the petitioner submitted that the petitioner had competed for selection to the post of Assistant Professor (College Cadre) in Economics under the Orthopedically Handicapped category, for, he was fully eligible therefore. He qualified the written

examination held on 23.10.2017. The short-listed candidates, including the petitioner, were called for scrutiny of documents and interview on 01.12.2017. However, he was not interviewed as he had failed to obtain the 'No Objection Certificate' from his employer, i.e. Government Primary School, University Campus, Kurukshetra. The case of the petitioner is that no such condition was mentioned in the advertisement Annexure P-1, but it was only vide letter dated 20.11.2017 (Annexure P-7), the petitioner was required to furnish the documents prescribed therein. Therefore, the petitioner applied for 'No Objection Certificate', on 29.11.2017, which was forwarded by the Headmaster of the School to Block Elementary Education Officer (BEEO), Thanesar, who in turn forwarded it to District Elementary Education Officer (DEEO), Kurukshetra, on 30.11.2017. And, that being so, the petitioner explained his position before the Scrutiny Committee on 01.12.2017. But to no avail. And, now the requisite certificate has since been issued to the petitioner on 16.01.2018 (Annexure P-11). It was contended, in the given situation, the candidature of the petitioner ought to have been considered, particularly for he was 100% physically handicapped.

Today there is a request for adjournment on behalf of the learned counsel for the petitioner.

Learned counsel for respondent Nos. 2 and 3 submits that admittedly there was no condition of producing the 'No Objection Certificate' issued from the competent authority, in case the candidate is serving in a Govt./semi Govt. organisation under any State Govt. or Govt. of India, in the advertisement, but in the application form itself mentioned that all the documents which are being mentioned therein, will be required to produce in

original by the candidate at the time of scrutiny of documents. The letter (Annexure P-7) was issued 20.11.2017 wherein it is specifically mentioned that the petitioner has to produce 'No Objection Certificate' from the competent authority and interview was scheduled for 01.12.2017. But the petitioner applied for the same on 29.11.2017 i.e. after nine days of issuance of said letter, whereas, it was already in the knowledge of the petitioner from 13.03.2016, the date of filling up of application form, to 20.11.2017 (date of issuance of letter) that he has to produce all the documents in original which he has mentioned in the application form, thus, the delay is on the part of the petitioner. Moreover, all the posts have already been filled up and the last selected candidate has not been impleaded as a party respondent in the memo of parties, which is necessary.

Learned counsel for respondent Nos. 2 and 3 also submits that as far as the order dated 24.01.2023 passed by this Court is concerned, it is inadvertent mistake on his part and tenders his unconditional apology.

I have heard the learned counsel for the petitioner and have also gone through the case file.

Though it was mentioned in the application form that all the documents will be required to produce in original at the time of scrutiny and vide interview letter dated 20.11.2017 (Annexure P-7) the petitioner was specifically asked to produce the 'No Objection Certificate', But the fact remains that the petitioner is a 100% handicapped person because of which he applied for 'NOC', on 29.11.2017, which was forwarded by the Headmaster of the School to Block Elementary Education Officer (BEEO), Thanesar, who in turn forwarded it to District Elementary Education Officer (DEEO),

Kurukshetra, on 30.11.2017. This was also explained by the petitioner before the Scrutiny Committee on 01.12.2017. The requisite certificate was issued by the competent authority to the petitioner on 16.01.2018 (Annexure P-11).

In view of the above, the petitioner without wasting any time applied for the requisite 'No Objection Certificate' from the competent authority, thus, there is no fault on the part of petitioner.

The petition is disposed of with a direction to the Haryana Public Service Commission, to call the petitioner for interview and consider his candidature on merits viz-a-viz the other candidates.

09.02.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No