

CWP-8195-2014

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2023:PHHC:157801

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

CWP-8195-2014

Date of decision : 03.10.2023

Rohit Salaria

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. R.C.Sharma, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

Mr. K.S.Sandhu, Advocate
for respondent Nos.2 and 3.

Mr. G.S.Bhinder, Advocate for
Mr. S.K.Chaudhary, Advocate
for respondent No.4.

DEEPAK MANCHANDA, J.(Oral)

1. Petitioner has filed this writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to process the service record of the petitioner, release his salary from the date of his appointment as Clerk. Further, a prayer has also been made for quashing the impugned minutes of the meeting dated 23.06.2011 (Annexure P-10) and appointment letter dated 23.06.2011 (Annexure P-11) issued to respondent No.4 by illegally, unlawfully and unconstitutionally manipulating the official records to replace the petitioner.

2. In the present petition, petitioner is aggrieved for non-release of his salary from the date of his appointment as Clerk and has challenged the impugned minutes of meeting dated 23.06.2011 (Annexure P-10) and the appointment letter dated 23.06.2011 (Annexure P-11) issued to respondent No.4 on the ground that as per the Minutes of the Meeting dated 23.06.2011, respondent No.4 was selected in place of petitioner against the reserved seat for scheduled caste candidate, whereas no such reservation was mentioned in the advertisement. The official respondents could not have treated the vacancy as reserved without declaring it to be reserved in the advertisement being discriminatory as no opportunity of hearing was afforded to other candidates from same category, who could have applied under the same category.

3. After issuance of notice of motion, the contesting respondent Nos.2 and 3 filed short reply dated 14.08.2014 and submitted that respondent Nos.2 and 3 issued advertisement on 12.06.2011 in the newspaper and as per the said advertisement, the applications were invited for the post of Auction Recorder and Clerks in the Market Committee, Dinanagar, where two posts for Clerks, out of which one was reserved for scheduled caste category as per the roster. The petitioner was placed at Sr.No.3 of the list being only two posts of Clerk available with the respondents. The petitioner was not even selected for the said post during the meeting. It is also asserted that the appointment letter which was issued to the petitioner was not valid as there was no post available, which even did not exist at that time.

4. During the pendency of this writ petition, vide order dated 24.05.2023, this Court directed the respondent No.1 to look into the matter and after perusing the records of respondent Nos.2 and 3 asked him to file report

spelling out the factual situation qua three issues which read as under:-

(i) Whether the post was to be filled by reserved category candidate;

(ii) If yes, why the same was advertised for general category candidates;

(iii) Whether the petitioner was issued appointment letter Annexure P-2.

5. In compliance of the said order dated 24.05.2023, an additional affidavit dated 24.07.2023 of Sh.Rahul Gupta, Additional Secretary, Department of Agriculture & Farmers' Welfare, Government of Punjab was filed wherein it is mentioned that as per the Appendix 'A' of The Punjab Market Committee (Group C) Service Rules, 1999, two posts of Clerk were sanctioned out of these two posts, one post was to be filled from reserve category candidate and one post was filled up by general category candidate. It is further mentioned that in respect of appointment letter (Annexure P-2) issued to the petitioner, no official record was available in the office of respondent No.2 related to Annexure P-2. So the said fact could not be verified whether petitioner was issued any appointment letter or not. It is also stated that due to the irregularities committed at the time of recruitment, the whole process of recruitment has already been set aside by the respondent No.2 and the same is cancelled.

6. Keeping in view the stand taken by respondent No.1-State, once the entire selection found to be illegal and the same stands cancelled, whereas the petitioner has sought quashing of appointment of respondent No.4 being selected under reserve category, who is alleged to be appointed in place of the

petitioner.

7. In view of the above, nothing remains to be adjudicated in the present case and the same is hereby dismissed.

(DEEPAK MANCHANDA)
JUDGE

03.10.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No