

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

CWP No.29800 of 2019 (O&M)

Date of decision : 02.02.2023

Rakesh Kumar

..... Petitioner

versus

Punjab Urban Planning & Dev. Authority

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Shailendra Sharma, Advocate
for the petitioner.

Mr. Sehajbir Singh, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Petitioner is aggrieved of public notice dated 01.10.2019 (Annexure P-17) issued by respondent granting additional opportunity to the candidates to appear for counseling who could not appear so in the earlier round pursuant to public notice dated 17.10.2018 (Annexure P-4). Vide Annexure P-1 respondent invited applications for recruitment to various categories of posts including that of Junior Engineer (Building). The petitioner was also one of the applicants. Result was declared. The petitioner was placed in the waiting list in his category. The selected candidate did not join. Vide Annexure P-5 a notice was issued offering appointment to one Opinder Singh. Annexure P-6 was issued whereby the candidates in the waiting list were invited for counseling. Case of the petitioner is that amongst the candidates who were placed in waiting list, it was only the petitioner who appeared on the said date and thus the said post ought to have been filled by accepting the candidature of the petitioner.

However, respondent in utter violation of the terms and conditions of notice

Annexure P-1 and the result Annexure P-4 gave another chance to the candidates to appear for counseling and thereby defeating the right of the petitioner.

Learned counsel for the petitioner has strongly relied upon the terms and conditions as published vide Annexures P-1 and P-4 which specifically provided that non-appearance in the counseling without written intimation will be treated as non-willingness to join and an opportunity will be given to next eligible candidate without issuing any notice.

Per contra learned counsel for the respondent submits that in view of a writ petition filed relating to selection to the post of Draftsman (Engineering) a conscious decision was taken at the highest level of Chief Administrator whereby the authority opted to give one more chance for counseling to the candidates in merit. He submits that it was in view of such decision that Annexure P-7 was issued and the selected candidates were given another chance to weed out further litigation.

I have heard learned counsel for the parties and have gone through the records of the case.

The stand taken by the respondent needs to be perused. Para 8 of the reply reads as under :-

"8. That it is further submitted that earlier in the similar advertisement, CWP No. 40563 of 2018 titled as Gurlal Singh Vs PUDA and others was filed by a candidate Sh. Gurlal Singh for directing the department to issue Offer/appointment letter for the Post of Draftsman (Engineering) under SC (B/M) Category as his name was at Sr. no. 3 in the merit list against the 3 advertised posts in advertisement. However, due to his absence on the day of counselling he was not entertained for such post. However, during the pendency of writ petition his file was forwarded to Chief Administrator PUDA where in Chief administrator PUDA gave the following observations:-

give one more chance for counselling to the petitioner as well as similarly situated candidates as they are on merit of selection list"

For the kind perusal of this Hon'ble Court, a copy of file noting dated 13.02.2019 is appended herewith as Annexure R-1."

The question thus arises is that the stand of the respondent be said to be un-reasonable and arbitrary. In the considered opinion of this Court, the authority when faced with the litigation took a conscious decision which was made applicable across the board. There is no averment in the writ petition to claim that the decision was tailor made to the peril of the petitioner or to advance right of an ineligible person or to benefit a particular person. Once a conscious decision has been taken by the authority and the same has been applied across the board, no fault can be found with the same and it cannot be termed as unjust or un-reasonable.

Resultantly, this Court does not deem it appropriate to interfere while exercising writ jurisdiction under Article 226/227 of the Constitution of India. Otherwise also the action of the respondent impugned in the present writ petition is with an intent to advance the merit and thus the same is in furtherance of Article 14 of the Constitution of India and thus no exception can be taken to that.

Petition stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

02.02.2023

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No