

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-26046-2022
Date of decision : 22.02.2023

Gurjant Singh

... Petitioner

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.S.Dhaliwal, Advocate
for the petitioner.

Mr.Ankur Sharma, Sr.Panel Counsel
for respondent no.1-UOI.

Mr. Raman Sharma, Advocate
for respondent nos.2 and 3.

VIKAS BAHL, J.(ORAL)

This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the letter dated 10.11.2022 (Annexure P-5) vide which the application of the petitioner dated 18.10.2022 for appointment of service provider has been rejected and also revoked / cancelled the interview call letter dated 28.10.2022 (Annexure P-4).

On 15.11.2022, a coordinate Bench of this Court was pleased to pass the following order:-

“Inter alia submits that the petitioner had applied pursuant to letter dated 03.08.2022 issued by the Petroleum Company (respondent No.3), seeking nomination of defence personnel for appointment of Service Provider for Company Owned Company Operated (COCO) Retail Outlets under Sangrur Territory in the

State of Punjab, as per procedure prescribed in the brochure dated 09.05.2022 (Annexure P-7). Guideline 1.2 of the said brochure specifically provides that the Rajya Sainik Board would be approached for seeking nominations of eligible retired officials of rank JCO only and the said Board would be requested to respond within 30 days of issuance of letter. It is urged that the stipulated period of 30 days from the date of issue of letter dated 03.08.2022 (Annexure P-1) would end on 02.09.2022, whereas the petitioner had already applied on 22.08.2022 i.e. before the said date. Thus, cancellation of the candidature vide impugned letter dated 10.11.2022 (Annexure P-5) on the ground of late submission is not sustainable.

It is further submitted that the interview is scheduled for tomorrow i.e. 16.11.2022 and the petitioner would be severely prejudiced in case, in the present circumstances, he is not considered for selection along with other applicants. As such, the interim prayer is for seeking stay of operation/implementation of the impugned letter dated 10.11.2022 (Annexure P-5) and direction to the respondents to interview the petitioner provisionally.

Notice of motion.

Mr. Ankur Sharma, Advocate accepts notice on behalf of respondent No.1 and waives service.

Mr. Raman Sharma, Advocate accepts notice on behalf of respondent Nos.2 and 3 and waives service. He seeks time to complete instructions and file written statement.

In the meanwhile, the petitioner be provisionally interviewed along with other applicants and the result by the Selection Committee be kept in sealed cover. The same be produced before this Court on the next date. It is made clear that the result of all candidates would remain in sealed cover and not only that of the petitioner.

To come up for service of respondent Nos.4 and 5.

On request, adjourned to 15.12.2022.

*(VIKAS SURI)
JUDGE*

November 15, 2022”

Thereafter on 15.12.2022, a coordinate Bench of this Court was pleased to pass the following order:-

“In pursuance to the previous order dated 15.11.2022, learned counsel for respondent Nos.2 and 3 has produced in Court

the result of the selection committee in a sealed cover. The same has been opened and perused.

The petitioner has secured second position as per the said provisional result. In the present circumstances, learned counsel for the petitioner seeks some time to advance submissions.

At his request adjourned to 24.01.2023.

The aforesaid result has been re-sealed in the same envelope and handed over to learned counsel for respondent Nos.2 and 3, who shall retain it with him and ensure its ready availability on the next date of hearing.

(VIKAS SURJ)
JUDGE

December 15, 2022”

Learned counsel for the petitioner has submitted that the petitioner in pursuance of the above orders had participated and as per the result declared, managed to secure the second position. It is further submitted that the petitioner wishes to challenge the selection of the person who stood at the first position and prays that the said right be kept open and passing of the impugned order should not come in the way of the petitioner challenging the said selection of the person who is stated to have stood first.

Learned counsel for respondents no.2 and 3 has stated that since the petitioner has already participated in pursuance of the interim order dated 15.11.2022 and had appeared before the Selection Committee and has secured the second position, thus, the impugned order will not come in the way of the petitioner to challenge the selection, if so advised, of the person who has stood first in the said selection and in case, the petitioner is able to succeed in the said challenge, then the petitioner being at the second position would be considered for the appointment. It is further submitted that since the selection in the present case is over, thus, the present petition has been rendered infructuous.

Learned counsel for the petitioner has submitted that the said

statement of learned counsel for respondents no.2 and 3 satisfies the claim of the petitioner as far as the present petition is concerned.

Keeping in view the above said facts and circumstances and also the statements made by learned counsel for the parties, the present petition is disposed of with the observation that in case, the petitioner seeks to challenge the selection of the person who has secured the first position, then the said challenge would be considered on merits and the petitioner would not be non suited on account of the impugned order dated 10.11.2022.

(VIKAS BAHL)
JUDGE

February 22, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No