

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

116

CWP-3290-2024
Date of decision : 22.02.2024

Sarita Kumari TobadiyaPetitioner

V/S

State of Haryana and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Raj Kapoor Malik, Advocate for the petitioner.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India for issuance of directions to respondent No.3-Haryana Staff Selection Commission to recommend the name of the petitioner for appointment on the post of Assistant Accountant under Scheduled Caste category being fully eligible and entitled along with all consequential benefits.
2. Learned counsel for the petitioner submits that total 07 posts of Assistant Accountant were advertised by the Haryana Staff Selection Commission and the petitioner applied for the said post in Scheduled Caste category. The petitioner was selected and was placed at Sr. No.2 in the selection list. The person at Sr. No.1 was appointed who immediately resigned from the post. He submits that since the petitioner was next in line in the merit list, therefore, as per instructions dated 25.06.2019 (Annexure P-9), the petitioner ought to have been appointed against the said post. The relevant portion from the above-said

instructions reads as under :-

“3. The above issue has been inviting the attention of the Government for some time past. Sometimes vacancies arise due to resignation of newly selected candidates or due to unfortunate death of any newly appointed candidate. It has been noticed that when a new candidate joins and then resigns immediately thereafter, the department treat it as a consumed vacancy and then send a fresh requisition to HSSC for the said post, as per previous instructions.

4. Now, considering the ratio of the direction of the Hon’ble High Court in its order dated 17.07.2013 in CWP No.15403 of 2011 cited above Government has decided that all the vacancies in respect of group C and D falling vacant for any reason including due to resignation or death of newly selected/appointed incumbents during the period of validity of the waiting list shall be filled up from the waiting list and there is no need to advertise such vacancies again till the waiting list is alive/operative.

5. These instructions shall also be applicable to all the waiting list which are in operation at the moment.

These instructions may please be brought to the notice of all concerned for strict compliance.”

3. Learned counsel for the petitioner further submits that for claiming the said relief, the petitioner had already served a legal notice dated 12.10.2023 (Annexure P-10), however, the same is still pending consideration with the respondents and he would be satisfied if directions are issued to respondents No.2 and 3 to consider the claim of the petitioner as stated in the said legal notice dated 12.10.2023 (Annexure P-10) in a time bound manner.

4. Notice of motion.
5. Ms. Vibha Tewari, A.A.G., Haryana, who is present in the Court, accepts notice on behalf of the respondents and has no objection to the innocuous prayer made by learned counsel for the petitioner.
6. I have heard learned counsel for the parties and have gone through the record of the case.
7. Without expressing any opinion on the merits of the case or the claim being made by the petitioner in the present petition, respondents No.2 and 3 are directed to consider and decide the claim made by the petitioner in the legal notice dated 12.10.2023 (Annexure P-10) in accordance with law, keeping in view the instructions dated 25.06.2019, as have been reproduced above, within a period of two months from the date of receipt of certified copy of this order and if the claim merits acceptance, the necessary order of appointment shall be issued to the petitioner.
8. The petition stands disposed of.

22.02.2024
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(NAMIT KUMAR)
JUDGE

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