



CWP-6515-2024

1

110

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

CWP-6515-2024

Date of Decision: 04-07-2024

Tarlok Rai**.....Petitioner****Versus****State of Punjab And ors.****.....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present:- Mr. Luvinder Sofat, Advocate
for the petitioner.

Mr. TPS Chawla, Sr. DAG Punjab.

Mr. Vikas Chatrath, Advocate with
Ms. Tanya Sehgal, Advocate,
Ms. Priya Kaushik, Advocate and
Mr. Preetleen Kaur, Advocates
for respondent No.25.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance raised by the petitioner is that respondent Nos.4 to 25 have wrongly been appointed on deputation to the post of Assistant Transport Officer in the office of Transport Department, Government of Punjab. The only argument which has been raised by the petitioner is that the petitioner competed for the post in question but could not be selected and the respondent Nos.4 to 25, who have been selected were not working to an equivalent post to that of Assistant Transport Officer and therefore, they could not have been appointed by way of deputation.

Notice of motion.



CWP-6515-2024

2

Mr. T.P.S. Chawla, Sr. DAG Punjab appears and accepts notice on behalf of the respondent-State and Mr. Vikas Chatrath, Advocate appears on behalf of respondent No.25.

Learned State counsel submits that no reply is needed keeping in view certain facts which have already been emerged as of now. He submits that grievance of the petitioner in the present petition has also been raised in case bearing CWP No. 28240 of 2023 titled as ***“Rakesh Kumar Vs. State of Punjab”*** wherein, the similar prayer was made. Learned counsel submits that though interim order was granted initially but the same was vacated, which order was challenged in LPA No.789 of 2024.

Learned State counsel further submits that the Division Bench of this Court, keeping in view the observation made in the order dated 22.03.2024, approved methods of selection for appointing the already serving employees on deputation and keeping in view the reasons given, the claim of the petitioner as raised in the present petition, does not survive.

Learned counsel appearing on behalf of the private respondent also submits the same submissions.

I have heard learned counsel for the parties and have gone through the records of the case with their able assistance.

Keeping in view the facts which have already been noticed hereinbefore, the dispute regarding same order by which the private respondents have been appointed on the post of Assistant Transport Officer on deputation, has been decided by the Division Bench of this Court in LPA No.789 of 2024. The relevant observations of the Division Bench are as under:-



“5. The stand of the State is very clear that they are having difficulties in filling up the posts due to which the said procedure has been resorted to. Rather, the specific plea has been taken that filling up the posts by way of deputation would amount to filling the posts by way of transfer. Reference is made to Rule 10.21 of Chapter 10 of the Punjab Civil Services Rules, Part 1 (Vol-1) that the term 'deputation' covers only appointment made by transfer on temporary basis. Rule 5 of the Punjab, Department of Transport (Non-Commercial Wing) (Class III), Service Rules, 2000 provides that if any suitable candidate is available for appointment to the service by promotion or by direct appointment, the appointment to the service may be made by transfer of a person holding an analogous post under the State Government or the Government of India.

6. Reliance has also been placed to the order dated 08.12.2023 (Annexure P-3) whereby the 27 persons were selected as Assistant Transport Officer wherein the term "period of deputation" had been specified that the Government reserves the right to reduce or extend the time of deputation at the time of absorbing them or if work of the said official is not found satisfactory or unsatisfactory in the department. Thus, it is clear that it is for the exigency of the services and in the administration of justice, the process had to be resorted to. It has also been averred that the restructuring of the Transport Department is being done and Rules are pending consideration before the Personnel/Finance Department and it is in such circumstances, resort has been taken to fill up the said posts by way of deputation.

7. The appellant himself is an applicant and for reasons best known to his department, his application apparently has not been forwarded. In such circumstances, we are of the considered opinion that the appellant can have no grouse against the vacation of the order of stay as 10 posts are still vacant. It is thus open to him also to press for his application to be forwarded for necessary action, if he so desires which was not the case before the Learned Single Judge. Even otherwise, we are of the considered opinion that the appeal itself is not maintainable in view of the judgment of the Apex Court in since his interests have not been affected in any manner.



8. Resultantly, in view of the above discussion, the present appeal is dismissed in limine.

From the above reproduction it would show that the Division Bench of this Court has already upheld the order by which the private respondents have been appointed on deputation. Keeping in view the observations of the Division Bench, the claim being raised by the petitioner in the present petition cannot be allowed and the writ petition is accordingly dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

04.07.2024
Sapna Goyal

Whether speaking/reasoned : Yes
Whether Reportable : No