



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of Decision: 03.09.2024

1. CWP-17588-2013 (O&M)

Dr. Keerat Kaur Sebia and another

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

2. CWP-20491-2013 (O&M)

Dr. Rahul Khanna and another

.....Petitioners

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.S. Attariwala, Sr. Advocate with
Mr. Saurabh Singla, Advocate
for the petitioner.

Mr. T.P.S. Chawla, Sr. DAG, Punjab .

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present batch of petitions, the grievance being raised by the petitioners is that they had competed for the post of Medical Officer which had been advertised by the respondents vide advertisement dated 26.07.2011, copy of which has been appended as Annexure P-1.

2. In the advertisement, there were 518 posts which were to be filled up and out of the total 518 posts, 259 posts were to be filled from the general category in which, the petitioners were competing for the post in question. The petitioner(s) underwent the selection process but keeping in view the merit

position, the petitioner(s) could not come up with the first 259 so as to get



themselves selected and appointed for the post in question. The name of the petitioners remained in the waiting list.

3. As per the petitioners, large number of candidates, who were selected and were given appointment, either did not join or left the post, which became available, to be filled from the waiting list and rather than exhausting the total waiting list, the respondent chose to issue a fresh advertisement to fill these posts, which act on the part of the State is arbitrary and illegal and, therefore, the posts which became vacant in pursuance to the advertisement dated 26.07.2011 (Annexure P-1) be given to the petitioners from the waiting list.

4. Upon notice of motion, the respondents have filed the reply, wherein the respondents have stated that as per the waiting list, 391 candidates were appointed in pursuance to the advertisement dated 26.07.2011 on 15.06.2012 and 17 vacancies from the general category remained vacant and ultimately the Government took a conscious decision on 12.12.2012 that rather than filling the vacancies from the waiting list, the posts be advertised again and, therefore, the posts were advertised again which advertisement is under challenge in the present petition.

5. Rebutting the contention of the learned State counsel, learned senior counsel appearing on behalf of the petitioners submits that even after the advertisement was issued in January 2013, including the 17 vacancies, the names were recommended from the waiting list to be appointed, which shows that even after deciding to issue the advertisement in December 2012, the respondents operated the waiting list, therefore, a right accrues to the petitioners to get appointment even after issuance of the advertisement dated 22.01.2013 which has been impugned in the present petition.



6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It may be noticed that the petitioners competed for the post in question in pursuance to the advertisement dated 26.07.2011 (Annexure P-1). The petitioners were participating in general category and against 518 posts, 259 were to be filled from the general category. Subsequent to the selection of the candidates, the petitioners were not the part of the 259 candidates to be selected and appointed which posts were advertised to be filled from the general category. The names of the petitioners remained in the waiting list. As per the respondents, the name of the petitioners in the waiting list is much down below.

8. The question which arise is as upto what time, the waiting list is to operate so as to consider the claim of the petitioners for the grant of appointment.

9. Learned senior counsel appearing on behalf of the petitioners concedes the factum that the waiting list can only operate for a period of six months after the issuance of the select list. That being so, once the appointment in pursuance to the advertisement dated 26.07.2011 (Annexure P-1) was made in June 2012, the waiting list could have only operated upto 13.12.2012. Hence, a decision was taken by the respondent-State to advertise the post on 12.12.2012, cannot be treated as arbitrary and illegal as, the validity of the said waiting list had already expired when decision was taken to fill the vacancies which had remained vacant by a fresh advertisement dated 20.12.2012 (Annexure P-12). Once, the validity of the waiting list had expired, the petitioners could not claim any right to claim the appointment on the basis of the waiting list.

10. Further, the contention of the learned senior counsel that even after the second advertisement issued in January, 2013, the respondent-department had



affidavit dated 27.11.2020 while stating that 63 candidates were brought on from general category waiting list, wherein the name of the petitioners was at Sr. No. 40 and 52 and initially 17 candidates were called for appointment from the waiting list on 21.12.2012 and out of the said 17 candidates, 8 candidates joined and later on opportunity was given to the others to join and the last candidate from the waiting list, who was offered appointment was Dr. Shikha Narang, who was at Sr. No. 26 in the waiting list and as a fresh advertisement had already been issued in January, 2013, after 22.01.2013, no candidate from the waiting list prepared in pursuance to the advertisement dated 26.07.2011 (Annexure P-1) could be given any chance as the waiting list was no longer valid. Under these circumstances, once the merit list was operated upto the date of the fresh advertisement, and nobody lower in merit to the petitioners has been granted appointment, this Court is of the view that no benefit of appointment can be given to the petitioners, especially when, upto January 2013, when the fresh advertisement was issued, the validity of the waiting list had already expired.

11. Further, the petitioners could have competed again against the fresh advertisement but rather than choosing to compete for the post, they only raised a claim for appointment under the earlier advertisement dated 26.07.2011 (Annexure P-1) so as to claim appointment being placed in the waiting list. Once, the validity of a waiting list has already expired upto the date of the afresh advertisement on 22.01.2013, it cannot be said that the issuance of the fresh advertisement, which decision was taken consciously by the State upon expiry of the waiting list, cannot be treated as arbitrary and illegal.

12. Further, there is no interim order with regard to the selection which was to be made on the basis of the advertisement which was issued in January,



Once, the candidates on the basis of the fresh merit list have also joined, granting the petitioners the benefit of appointment on the basis of the earlier selection and that too from the waiting list, against which vacancies a subsequent selection has already been made, no ground is made out for grant of appointment to the petitioners on the basis of a merit list which was prepared in pursuance to the advertisement dated 26.07.2011.

13. The contention of the learned senior counsel for the petitioners is that there were more vacancies which remained vacant to be filled up from the general category as compared to 17 as being stated by the respondents. This Court is not going into the said fact as, any vacancy which remain vacant, upon the expiry of the waiting list, the said vacancy cannot be filled up from the earlier selection process, especially when a fresh selection process had already been initiated by the department immediately thereafter. Therefore, even if more vacancies were available on the date when the fresh advertisement was issued, the same were also required to be filled up by the fresh selection process only and not from the waiting list which had already expired.

14. Keeping in view the above, no ground is made out for grant of any relief of the petitioner.

15. Dismissed.

16. A photocopy of this order be placed on the file of the connected case.

03.09.2024

Satyawan

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No