



CWP-17510-2020 (O&M) 1

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

**(230) CWP-17510-2020 (O&M)
Date of Decision : May 20, 2024**

Amit Kumar and others .. Petitioners

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Sr. Advocate, with
Mr. Kartikey Chaudhary, Advocate, for the petitioners.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 04.09.2020 (Annexure P-6) by which, the respondents have taken a decision to cancel the selection in pursuance to the Advertisement dated 26.09.2019 (Annexure P-1).
2. It may be noticed that the respondents issued an advertisement for making selection to the various posts, copy of which has been appended with this petition as Annexure P-1. During the selection, certain complaints were received by the competent authority with regard to the process as well as irregularities committed while conducting the selection process.
- Keeping in view the said complaints, an enquiry was initiated and keeping

**CWP-17510-2020 (O&M) 2**

in view the enquiry report received, respondent No.3, who is the competent authority, directed respondent No.4 not to make any appointment in pursuance to the advertisement and the said advertisement was shelved.

3. The prayer of the petitioners is that petitioner No.1 who has competed for the post of Monitoring and Evaluation Officer, petitioner No.2 who has competed for the post of Technician and petitioners No. 3 to 8, who have competed for the post of ANM, should be appointed in pursuance to the selection process already undertaken.

4. Upon notice of motion, the respondents have filed the reply and in the reply, it has been mentioned that Deputy Commissioner, Kaithal is the Chairman of District Health and Family Welfare Society, Kaithal and is the competent authority to make appointment. With regard to the Advertisement Annexure P-1, certain complaints were received regarding the written test and interview conducted and the matter was enquired into and keeping in view the enquiry report received by the competent authority, it was decided not to make any appointment in pursuance to the Advertisement dated 26.09.2019 (Annexure P-1) and the selection process was cancelled.

5. Learned senior counsel appearing on behalf of the petitioners contends that the post qua which, complaints were received, can only be shelved and not the other posts and hence, as there is no irregularity pointed out qua the posts of Monitoring and Evaluation Officer, Technician as well as ANM, the petitioners are entitled to be selected and appointed.

**CWP-17510-2020 (O&M) 3**

6. Learned State counsel, on the other hand, submits that the posts were advertised to be filled on contract basis and once there were complaints which were enquired into and the competent authority *prima facie* of the view that the process envisaged for selection is not correct, and the same has been cancelled, the petitioners have no right to claim that they should be selected and appointed in pursuance to Advertisement dated 26.09.2019 (Annexure P-1).

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

8. The only question arises is whether a candidate competing for the post can seek a direction from the Court that the selection process should be concluded and taken to the logical end so as to grant selection and appointment. The said question came up for consideration before the Hon'ble Supreme Court of India in ***Civil Appeal No.4150 of 2022 titled as Employees State Insurance Corporation and another vs. Dr. Vinay Kumar and others, decided on 18.05.2022.*** The relevant paragraph of the said judgment is as under:-

“6. The cardinal principle we must bear in mind is that this is a case of direct recruitment. A candidate who has applied does not have a legal right to insist that the recruitment process set in motion be carried to its logical end. Even inclusion of a candidate in the select list may not clothe the candidate with such a right. This is, however, different, no doubt, from holding that the employer is free to act in an arbitrary manner. But, at the same time, in the first place, direction which is given by the High Court to conclude the recruitment within 45 days is clearly untenable. This is for the

**CWP-17510-2020 (O&M) 4**

reason that, as noticed, the advertisement dated 01.03.2018 was put on hold on 21.03.2018 before the last date indicated for filing the application by advertisement dated 01.03.2018. As the very advertisement was put on hold, it is quite likely that any candidate who may have being desirous of applying, may not have applied being discouraged by the fact that the advertisement has been put on hold. Therefore, the direction to conclude the proceedings within 45 days is unsupportable.”

9. In the present case, after the enquiry into the complaints received, opinion was formed by the competent authority not to make any selection. Once there is a reason given for not concluding the selection process, the same has to be respected. The Courts have no power to be an appointing authority so as to direct the respondents to complete the selection process and to grant appointment.

10. The argument which has been raised by the learned senior counsel for the petitioners is that where there is no allegation of irregularities qua certain posts, the said posts be filled up.

11. It may be noticed that the decision is to be taken by the competent authority. Once the selection process was joint qua all the posts in the same advertisement and there were irregularities committed and complaints filed and the matter was enquired into, the competent authority was within its jurisdiction to decide as to whether, the selection process is to be taken to the logical end or not. Merely that no grievance was raised qua a particular post, does not give a right to the petitioners to claim appointment against the said post.

12. Further, in a writ petition, any right which exist with the petitioners, can be agitated. It is a settled principle of law that even the



CWP-17510-2020 (O&M) 5

selection against a post does not give any right for appointment. In the present case, the selection was not being made on regular basis but on contractual basis. The selection process has been shelved since long i.e. about five years ago. Nothing has come on record that even as of now, the respondents need the said post to be filled up. Hence, in the absence of any right with the petitioners to claim selection and appointment, no direction can be given even if, no specific allegation has come against the post against which the petitioners were competing but it may be noticed that as per the affidavit filed, qua the post of ANM, there have been irregularities which have been found, which fact has gone unrebutted at the hands of learned senior counsel for the petitioners.

- 13. No ground is made out for any interference by this Court in the present case.
- 14. Dismissed.
- 15. Any civil miscellaneous application pending if any, also stands disposed of.

May 20, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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