

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105+217)

CM-2352-CWP-2024 ;
CM-2353-CWP-2024 in/and
CWP-21527-2018
Date of Decision : 13.02.2024

Pushpendra Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(217/2)

CWP-22739-2018

Vikram Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jitender Singh Kundu, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-2352-CWP-2024

Present application has been filed for placing on record certain documents as Annexures P-15 to P-18.

Application is allowed and the documents as Annexures P-15 to P-18 are taken on record.

CWP-21527-2018 and CWP-22739-2018

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

2. In the present petitions, the grievance being raised by the petitioner(s) is that they had competed for the post of Junior Coach (Kabaddi) as advertised vide Advertisement No. 11/2015 dated 01.12.2015 (Annexure P-1) and as per the recommendation of the selecting agency, the petitioner(s) were placed in the waiting list in the General Category but the petitioner(s) are not being considered for appointment against vacant ESM-Gen. Posts, which benefit has already been granted to respondents No. 4 to 6.

3. Learned counsel for the petitioner(s) argues that certain posts in the reserved category of Ex-servicemen could not be filled up or became vacant due to non-joining of the candidates and the posts, which were reserved for the Ex-servicemen, which could not be filled, were given to the candidates belonging to the General Category, whereas the same process was not followed qua the petitioner(s) though, it has already come on record that the posts in question had become vacant before the expiry of the waiting list.

4. Learned counsel for the respondents, on the other hand, submits that the petitioner(s) were competing in the General Category for the post in question and it has already come on record that no candidate, who is lower in merit than the petitioner(s) in the General Category has

been appointed and merely that the posts in the category of Ex-servicemen remained vacant due to non-joining of the candidates, the same will not give a right to the petitioner(s) to claim appointment qua the said post by converting the same into General Category.

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

6. It is a settled principle of law that the candidates can compete in their own category and can only raise a grievance in case anybody, who is lower in merit than the said candidate has been appointed in a category in which the said candidate is competing.

7. In the present case, it has come on record that certain General Category candidates have been given appointment against the posts, which remained vacant in the category of Ex-servicemen by converting the unfilled reserved post into General Category. Once, the said process has already been adopted by the respondents qua other candidates, the same should have also been adopted qua the petitioner(s) also in case, any post in the ESM-General Category became vacant during the subsistence of the waiting list.

8. It is a conceded position that a post in the Ex-servicemen Category had become vacant. That being so, the respondents were under obligation to consider filling up of the said posts from the waiting list in case, the said waiting list was operating keeping in view the date of the publication of the original result.

9. The present petition is disposed of with the direction to the respondents to consider the claim of the petitioner(s) in case any post had become vacant in the Reserved Category of Ex-servicemen and there was no other candidate in the said category to fill the said post and the petitioner(s) were already in the waiting list in the General Category and the waiting list was subsisting.

10. Let the said consideration be finalized within a period of eight weeks from the date of receipt of copy of this order and in case, the petitioner(s) are found entitled for any appointment, the same be extended to him but in case, the petitioner(s) are not found entitled for any relief, due reasons be given by passing an appropriate speaking order.

11. Petitions are disposed of in above terms.

12. Any miscellaneous application, if pending, stands disposed of.

February 13th, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No