

CM-17455-CWP-2024 in/and
CWP No. 22094 of 2023 (O&M)

2024:PHHC:147924



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112+285)

CM-17455-CWP-2024 in/and
CWP No. 22094 of 2023 (O&M)
Date of Decision : 13.11.2024

Harwinder Singh and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.C. Arora, Advocate for the petitioners.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-17455-CWP-2024

Present application has been filed for placing on record
replication to the written statement filed on behalf of respondents No. 1 to 3.

Application is allowed and replication to the written statement
filed on behalf of respondents No. 1 to 3 is taken on record with all just
exceptions.

CWP-22094-2023

1. In the present petition, the grievance being raised by the
petitioners is that the respondents by the impugned notice dated Nil
(Annexure P-6) have cancelled the recruitment process in pursuance to the
Advertisement (Annexure P-1).



2. Learned counsel for the petitioners submits that once the petitioners have competed for the post in question, the recruitment process could not have been cancelled, hence, the respondents be directed to conclude the recruitment process in pursuance to the Advertisement (Annexure P-1).

3. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that during the selection process, a large number of complaints were received with regard to the conduct of the selection process being contrary to the statutory provisions, according to which, the selection process was to be conducted in English as well as in Punjabi, hence, the competent authority looked into the matter and found that the selection process was not being conducted in a manner required and, therefore, the same was scraped.

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

5. The only question which arises for determination in the present petition is whether, any direction can be given to the State to finalize the selection process, which has been cancelled by the State. As per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No.4150 of 2022 (Arising out of SLP (C) No.15749 of 2021) titled as ***Employees State Insurance Corporation & Anr. Vs. Dr. Vinay Kumar & Ors.***, decided on 18.5.2022, no candidate who is competing, can approach a Court to seek a direction that the selection process should be taken to the logical end. The relevant paragraph No. 6 of the said judgment is as under :-



“6. The learned counsel has drawn the attention of this Court towards the Employees State Insurance Corporation (Medical Teaching Faculty Post) Recruitment Regulations, 2015 and his contention is that, as per the schedule appended to the Recruitment Rules, the Department can resort to direct recruitment only if the post cannot be filled up by promotion. The learned counsel for ESI Corporation has vehemently argued before this Court that Dr. Kamala has been promoted by order dated 12.3.2018 with effect from 19.4.2017, and therefore, no vacant post was available. The learned counsel has also categorically stated that promotion of Dr. Kamala was on account of Office Memorandum issued by Government of India, Ministry of Health and Family Welfare, CHS Division, dated 29th October, 2008, thereby she was given promotion under the scheme of Extension of Dynamic Assured Career Progression (DACP). This Court has carefully gone through the DACP Scheme. Paragraph 3 of the aforesaid Scheme reads as under:

"3. The above mentioned promotions under DACP Scheme will be made by this Ministry without linkage to vacancies. Other conditions for effecting promotions will be governed by the respective Recruitment Rules as amended from time to time and Department of Personnel and Training's instructions in this regard."

6. Hence, no direction can be given to the State as being sought in the present petition. Apart from this, with regard to the cancellation of the examination, the respondents have stated a valid reason. According to the respondents, complaints were received during the process of the selection process that the same was being conducted in English and not in Punjabi,



whereas the same was required to be conducted in Punjabi as well as English and after considering the said complaints, a decision was taken by the competent authority to cancel the selection process to hold its again in future. The said reason cannot be treated as arbitrary and illegal.

7. Once, the justification has been given for an action, which action was within the jurisdiction of the State, no interference is called for by the Court in the said decision taken.

8. No ground is made out for any interference by this Court in the present petition.

9. Dismissed.

10. Pending miscellaneous application, if any, also stands disposed of.

November 13, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No