

2024:PHHC:003800
CWP-770-2024
Date of Decision: 12.01.2024

Ajit Pal Singh and others

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Rajinder Sharma , Advocate for the petitioners.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioners are those candidates who were given benefit by the Hon'ble Supreme Court to be appointed against unfilled vacancies of 2011 as well as '140' posts of Medical Laboratory Technicians advertised in the year 2016.

2. After having been appointed against those posts, the petitioners are now claiming that they should be given seniority over those candidates who were appointed under advertisement of 2011, based on their inter se merit with the said candidates.

3. It would be apposite to quote para Nos.9 and 10 of the order passed by the Hon'ble Supreme Court, which reads as under:-

“9. Admittedly, the Appellants were not eligible for consideration for appointment to the post of Medical Laboratory Technician according to the 2007 Rules. The advertisement that was issued in 2011 was on the basis of the 2007 Rules. By an interim order, the High Court directed the Appellants to be considered in spite of their ineligibility in accordance with the 2007 Rules. It is stated in the affidavit filed on behalf of the

Appellants in the Civil Appeal arising out of SLP (C) No.5862 of 2015 that the Appellants have secured more marks than the last selected candidate. It is clear from the affidavit filed on behalf of the State that the selections pursuant to the advertisement issued in 2011 have been finalised and that the selections for the advertisement issued in 2016 are at the final stage. As there was no interim protection granted to the Appellants regarding the finalisation of the selection pursuant to the advertisement of 2011, we do not find any illegality in the action of the Respondents in completing the process of selections. Though we find that the Appellants suffered due to the anomaly in the 2007 Rules which was rectified by the 2016 Rules, we are of the considered opinion that the Appellants are not entitled to be considered for appointment to the posts advertised in 2011. We do not intend to interfere with the finalisation of the selections pursuant to which the selected candidates would have been appointed. However, we direct the Respondents to consider the Appellants, according to their merit to the vacancies which are not filled up pursuant to the advertisement of 2011 due to non-joining of selected candidates.

10. In any event, the Appellants shall be entitled for consideration for the 140 posts of Medical Laboratory Technician advertised in 2016. The Respondents are directed to consider the Appellants, by relaxing the maximum age (if required), in the available unfilled vacancies of the 2011 advertisement and 140 posts which were advertised in 2016.

4. In view of the above, it is apparent that the petitioners were not found to be eligible for consideration for appointment in terms of the advertisement of the year 2011 but while exercising the powers under Article 141 of the Constitution of India, the petitioners have been given additional relief by the Hon'ble Supreme Court. The said relief would not, therefore, be

extended to claim parity to those who were appointed and were eligible under advertisement of the year 2011.

5. The writ petition is wholly misconceived and is accordingly dismissed.
6. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

12.01.2024
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1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No