



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

CWP-7498-2025

Date of Decision:19.03.2025

SIMRANJEET SINGH

...Petitioner

Vs.

STATE OF PUNJAB AND ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the prayer of the petitioner is that the petitioner competed for the post of Process Server, in pursuance to the advertisement dated 10.01.2024, issued by the District and Sessions Judge, Gurdaspur, copy of which has been appended with the petition as Annexure P-5, and the petitioner was kept in the waiting list at serial no.1.

2. Learned counsel for the petitioner submits that one of the Post of the Process Server became vacant upon the resignation of a selected employee, namely Ramesh who had earlier joined, and, therefore, the petitioner who was next in line in the waiting list, i.e., at serial no.1 was entitled for the appointment by operating the waiting list, which was not being done and the petitioner approached this Court by filing **CWP-33109-2024, Simranjeet Singh Vs. State of Punjab and others**, which petition has been decided by this Court vide order dated 09.12.2024, Annexure P-14, wherein a direction was given to the competent authority to decide the representation dated 05.09.2024 of the petitioner wherein the petitioner was



seeking operation of the waiting list so as to grant him the appointment for the post of Process Server. Learned counsel for the petitioner submits that the said representation has been rejected by the District and Sessions Judge, Gurdaspur, while passing a non-speaking order dated 18.02.2025, Annexure P-18. Hence, the present petition.

3. Learned counsel for the petitioner argues that once the post i.e. Process Server against which the petitioner competed, had become vacant after the resignation submitted by one of the selected candidate, the waiting list should have been operated by the respondents, rather than advertising the said post again. He further submits that non-grant of appointment to the petitioner despite availability of one of the advertised post is arbitrary and illegal.

4. Mr. Akshay Bhan, Senior Advocate assisted by Mr. Amandeep Singh Talwar, Advocate, appearing on behalf of respondents, keeping in view advance notice, submits that keeping in view the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No. 10861 of 2013, Sudesh Kumar Goyal Vs. The State of Haryana and others**, decided on 21.09.2023, in case any vacancy arises due to the resignation tendered by one of the selected and appointed candidate, the said vacancy cannot be filled up by operating the waiting list and the same has to be advertised again by following the fresh selection procedure, hence, the claim of the petitioner in the present petition that he be given appointment on the post which had become available upon the resignation of the selected candidate is liable to be rejected. Thereafter, learned senior counsel further



submits that keeping in view that the settled principle of law, the said vacancy has already been advertised by the competent authority and the petitioner will be free to compete for the said post in case he is eligible.

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

6. The factum that the post of Process Server which has been claimed by the petitioner by operation of waiting list was occupied by one of the selected candidate, who is higher in merit than the petitioner. The said selected candidate after working for sometime submitted his resignation, which vacancy is being claimed by the petitioner, now on the ground that he was next in the waiting list at serial no. 1 to be appointed as a Process Server.

7. The question whether the said request can be accepted or not, is to be decided by this Court. The question of law whether the post which was advertised and has been filled by the selected candidate, and in case the selected candidate resigns, whether the waiting list can be operated, has already been decided by the Hon'ble Supreme Court of India in **Sudesh Kumar Goyal (Supra)**. A relevant paragraph 18 of the judgment is as under:

18. This takes us to the second argument that the appellant could have been easily adjusted against the vacancy caused due to resignation of one of the selected candidates. The argument per se is bereft of merit inasmuch as all the vacancies notified stood filled up initially. However, if one of the selected candidates joins and then resigns, it gives rise to a fresh vacancy which could not have been filled up without



issuing a proper advertisement and following the fresh selection process. The Division Bench has rightly dealt with the above contention in the light of the precedent of the various decisions of this Court and we do not feel that any error has been committed in this context.

8. A bare perusal of the above judgment would show that once the post was filled up by the selected candidate, subsequent resignation will not entitle a candidate in the waiting list to claim appointment and the same is to be filled up by holding a fresh selection process. Learned counsel for the petitioner has not been able to rebut the said proposition of law.

9. Learned counsel for the petitioner argues that while applying for the RTI, the question was posed, whether, the precedence of appointing the candidate from the waiting list against the vacancy existing available after the appointments are made for the post, was mentioned as 'yes', hence, the claim of the petitioner should have been accepted on the basis of past precedence. It may be noticed that any past precedence which is contrary to the said principle of law laid down in Sudesh Kumar Goyal (Supra) cannot be adhere to so as to grant the benefit to the petitioner for the appointment to the post in question.

10. In view of above, the petition is dismissed in *limine*.

(HARSIMRAN SINGH SETHI)
JUDGE

19.03.2025

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