

CWP-8869-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8869-2022 (O&M)
Date of decision : 15.09.2022

Amrit Anjana

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. L.C. Aggarwal, Advocate,
for the petitioner.

Ms. Anu Chatrath, Addl.A.G., Punjab.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for directing the respondents to consider the representations of the petitioner dated 22.03.2022 & 25.03.2022 (P-3) and to appoint her against the post of President, District Consumer Disputes Redressal Commission, Sangrur (for short, President, District Commission); further prayer is for directing the respondents to consider the representation dated 20.07.2021 (P-4) for appointing the petitioner as President, District Commission, Malerkotla.

2. Facts are not in dispute.

3. Government of Punjab, Department of Food, Civil Supplies & Consumer Affairs (for short, 'the Department'), invited

applications for filling up 09 (nine) posts of President, District Commissions vide public notice dated 09.01.2021 (P-1), and relevant part of the same reads as under:-

***“Department of Food, Civil Supplies and
Consumer Affairs, Punjab***

DETAILED NOTICE

*Applications are invited from suitable candidates for appointment for nine posts of Presidents in the District Consumer Commissions in the State of Punjab (for District Consumer Commission **Barnala, Bathinda, Fatehgarh Sahib, Sangrur, Ropar, Kapurthala, Mukatsar Sahib, Jalandhar and Faridkot**) on whole time basis established under the Consumer Protection Act, 2019. (subject to final decision in CWP 30239 of 2018 Jot Niranjan Singh Gill Vs State of Punjab & others, and various other court cases which are pending in the Hon'ble Court).*

The number of vacancies may increase or decrease for any reason whatsoever such as resignation or relieving of Presidents or as ordered by the Hon'ble Punjab and Haryana High Court in various pending Court Cases.

Eligibility Criteria

As per rule 4 of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission and District Commission) Rules, 2020 made under the provisions of the Consumer Protection Act 2019 describes as under:-

4(1) "A person shall not be qualified for appointment as President, unless he is, or has been, or is qualified to be a District Judge."

Tenure

The appointment shall be on whole time basis for a period of 4 years or up to the age of 65 years, whichever is earlier.

Qualifications

1. The Applicant must have passed Matriculation with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi language.

2.1 in case of serving officials:-

(i) Applicant must have obtained 'No Objection Certificate' (NOC) from his employer.

(ii) In case any departmental or any other proceedings including criminal case has been initiated, pending or decided in the past against the officer under relevant Service Rules, details of the same may be furnished.

2.2 In case of retired officers, the date of superannuation and "No Inquiry Certificate" shall be necessary from the last employer.

2.3 ACR dossiers with ACRs of last 10 years of applicant.

2.4 Candidates having judicial background are required to furnish copies of their ten best judgments/other judicial orders passed by them along with their application form.

3. Selection of the Members of the District Commission shall be made by the Selection Committee prescribed in the Rule 6 of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of

the Presidents and members of the State Commission and District Commission) Rules, 2020 made under the provisions of the Consumer Protection Act 2019.

4. Every appointment of a Member shall be subject to submission of a certificate of physical fitness signed by a civil surgeon or District Medical Officer to his medical fitness.

5. Before appointment, the selected candidate shall have to furnish an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

Oaths of office and secrecy:- Every person appointed to be a Member, before entering upon his office make and subscribe an oath of office and secrecy in Forms I and II annexed.

Declaration of Financial and other interest:-A Member, before entering upon his office, declare his assets, and his liabilities and other interests.

Disqualifications:-

A person shall be disqualified for appointment as a member, if he:-

(a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(b) has been adjudged as an insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the State Government or Central Government or A body Corporate owned or controlled by such Government; or

(e) has, in the opinion of the State Government, such financial or other interest as is likely to prejudicially affect his functions as the Member.

The selection of member or the president shall be regulated as per the provision of Rule 4(3) of Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020. Meaning thereby that selection of woman member or women president shall be dependent on the constitution of the District Commission.

All other terms and conditions of the appointment of the Member shall be governed by the Consumer Protection Act, 2019 as well as the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 available at website www.foodsuppb.gov.in

It is made clear only applications filled online at link available at www.foodsuppb.gov.in till the cut off date i.e 10/02/2021 till 5:00 PM and complete in all aspects with application fee of Rupees 2000/- (Rupees Two thousands Only) paid online and with requisite documents attached shall be considered. Any application found incomplete in this regard, would be rejected in scrutiny and no intimation regarding the same shall be sent to applicant.

*Principal Secretary to Govt. of Punjab
Department of Food, Civil Supplies &
Consumer Affair”*

4. In response to aforesaid public notice, petitioner submitted her applications against the post(s) in question for Districts Sangrur & Fatehgarh Sahib within stipulated period. After scrutiny of applications, the Department uploaded a provisional list of 42 (forty two) candidates for interview which was scheduled to be held on 02.04.2021 in the following manner:-

“Schedule of Interviews

Venue: Committee Room of Hon’ble High Court of Punjab and Haryana at Chandigarh

<i>Date</i>	<i>Roll Nos.</i>	<i>Reporting Time</i>
<i>02.04.2021</i>	<i>01 to 21</i>	<i>9.00 A.M. (in Court Room No.5)</i>
	<i>22 to 42</i>	<i>11.00 A.M. (in Court Room No.5)</i>

”

5. The Selection Committee, after assessing all the eligible candidates as per criteria & procedure, resolved to recommend ‘in order of merit for District-wise appointments to the State Government’ and for reference, the relevant part of recommendation is recapitulated as under :-

“The Committee has perused the Roll Number wise final result as at Annexure ‘B’ and District wise Merit List of Ropar, Kapurthala, Fatehgarh Sahib, Jalandhar, Sangrur, Barnala, Bathinda, Sri Muktsar Sahib and Faridkot as at Annexures ‘C’ to ‘K’, respectively, and the same are approved. The Committee resolves to recommend the following panel of names, in order of merit, for District-wise appointment, as under:-

Ropar

1. Sh. Kuljit Pal Singh
2. Sh. Ranjit Singh

3. *Ms. Vikramjit Kaur Soni*

Kapurthala

1. *Sh. Rajesh Bhatia*

2. *Ms. Sunita Kumari Sharma*

3. *Sh. Lalit Pathak*

Fatehgarh Sahib

1. *Sh. Kamal Kant*

2. *Sh. Pushvinder Singh*

3. *Sh. Inderjit Kaushal*

Jalandhar

1. *Ms. Harveen Bhardwaj*

2. *Sh. Chander Shekhar Marwaha*

3. *Sh. Aanand Sagar Narang*

4. *Sh. Jagdeep singh Marok*

Sangrur

1. *Sh. Sant Prakash Sood*

2. *Ms. Amrit Anjana*

3. *Sh. Kanwaljeet Singh*

Barnala

1. *Sh. Sanjay Kumar Sachdeva*

2. *Sh. Ashish Kumar Grover*

3. *Sh. Tejinder Singh Sidhu*

Bathinda

1. *Ms. Gagandeep Gosal*

2. *Sh. Phool Singh*

3. *Sh. Kanwar Sandeep Singh*

Sri Muktsar Sahib

1. *Sh. Ashok Kumar Garg*

2. *Ms. Sukhdeep Kaur*

3. *Sh. Rajinder Kumar Sachdeva*

Faridkot

1. *Sh. Rakesh Kumar*

2. *Sh. Gurpal Singh*

3. *Sh. Ajit Aggarwal*

The recommendation of the names is as per their ranking in merit for the purpose of appointment. The appointment shall be offered to the candidates after thorough scrutiny of documents.”

*Sd/-
Member*

*Sd/-
Member*

*Sd/-
Chairman”*

6. After taking into consideration the above recommendation, the State Government vide order dated 11.06.2021, shortlisted names of 08 (eight) candidates for medical examination and ultimately, vide order dated 23.06.2021 (P-5), issued appointment order in favour of 07 (seven) candidates.

7. Learned counsel for the petitioner contended that she is the most suitable candidate for the post in question being at Serial No.2 in the merit list of District Sangrur. Further submitted that the post of President, District Commission, Sangrur, again fell vacant as the selected candidate, Sh Sant Prakash Sood, tendered resignation within six months from the date of his appointment. Also submitted that selection process has not attained finality as certain posts already advertised are yet to be filled up by the Department. Again submitted that certain other candidates have challenged the appointment(s) on the ground that same were made by the respondents while ignoring the merit position(s). Also submitted that at the time of issuance of advertisement, newly carved out District of Malerkotla was a part of District Sangrur and it was specifically mentioned in the advertisement that the Government may increase or decrease the number of vacancies.

Since a vacancy has come into existence due to creation of District Malerkotla, therefore, petitioner be deemed to be recommended against the post of President, District Commission, Malerkotla, being at Sr. No.2 of the panel recommended by the Selection Committee for District Sangrur. Further submitted that petitioner made representations dated 27.07.2021, 22.03.2022 & 25.03.2022 to respondent No.1 to fill up the post of President, District Commission, Sangrur by appointing her as the same had fallen vacant due to resignation by the earlier President, but no action has been taken so far in the matter.

8. On the other hand, learned State counsel submitted that petitioner was included in the panel at Sr. No.2 for District Sangrur and Sh. Sant Prakash Sood being at Sr. No.1 was appointed for the Post of President, District Commission, Sangrur. However, later on he resigned from the post within six months; thus, in such a situation, the selection process stood concluded and petitioner has no right to claim appointment being at Sr. No.2. Besides this, there was no advertisement regarding appointment of President, District Commission, Malerkotla. Hence, prayer of the petitioner deserves to be rejected.

9. Heard learned counsel for the parties and perused the records.

10. Concededly, name of petitioner does not find mention in the panel prepared for District Fatehgarh Sahib; nor there was any post advertised for District Malerkotla. Only for District Sangrur, petitioner

was included in the panel at Sr. No.2. As submitted by learned State counsel, candidate at Sr. No.1-Sh. Sant Prakash Sood was appointed for the post of President, District Commission, Sangrur, but later on he resigned; thus, the vacancy stood consumed at relevant point of time. Moreover, he has not even been impleaded as a party-respondent by the petitioner for the reasons best known to her. In such a scenario, petitioner has no right to claim appointment for the post of President, District Commission, Sangrur, being at Sr. No.2 of the merit position.

11. In view of the above, this Court does not find any merit in the present writ petition and as a result thereof, same is dismissed.

15.09.2022
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No