

2025:PHHC:009928-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.2893 of 2024 (O&M)  
Decided on : 22.01.2025

JAGDEEP SINGH

....Appellant

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Sameer Sachdeva, Advocate  
for the appellant.

Mr. R. S. Pandher, Sr. DAG, Punjab.

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**LISA GILL, J.**

1. Prayer in this appeal is for setting aside decision dated 05.10.2024 passed by learned Single Bench whereby CWP No.26408 of 2024 filed by present appellant/writ petitioner has been dismissed.

2. Above said writ petition was filed by appellant for setting aside speaking order dated 16.08.2024 whereby his claim for appointment to the post of Driver pursuant to advertisement dated 12.09.2016 was rejected. It is pleaded that advertisement No.5 of 2016 (Annexure P-1) was issued by respondent no.2 - Subordinate Services Selection Board, Punjab (for short SS Board), for recruitment of 210 posts of drivers in various departments. Appellant applied for post of Tractor Driver in the Department of Animal Husbandry (under the General

Category) and for Driver-cum-Helper in the Department of Urban and Town Planning. Written test conducted by the SS Board on 16.09.2018 was taken by petitioner and he was declared eligible for further process. Driving test was to be held in January, 2021 as per public notice issued in December, 2020. However, on 01.01.2021, a day before driving test was to be held, same was cancelled vide Public Notice dated 01.01.2021 (Annexure P-7), without any reason. It is pleaded that the test may have been kept on hold due to peak COVID times. However, even four years after clearing written test, process of recruitment of left over posts was not being concluded which led to filing of CWP-17382 of 2024 by petitioner. Writ petition was filed on 18.07.2024 with an advance copy to the office of Advocate General, Punjab. Before the matter could be listed before Court, the department it is pleaded, in a clever manner put up a website note on 23.07.2024 that posts of drivers qua certain departments, which included the department opted for by petitioner stood withdrawn. CWP-17382 of 2024 filed by petitioner was disposed of on 26.07.2024 directing the respondents to decide representation dated 18.01.2024 submitted by him, within a period of 8 weeks. Pursuant thereto impugned order 16.08.2024 was passed rejecting the claim of appellant, leading to filing of writ petition in question.

3. Writ petition was opposed by respondents while stating that requisition given by departments in question i.e. Department of Animal Husbandry and Department of Urban and Town Planning had been withdrawn and no candidate had been appointed against advertised vacancies in question. As and when the post is filled in accordance with rules governing the service, he may compete for the same.

4. Learned Single Bench on considering the facts and circumstances concluded that an employer has complete rights to withdraw a requisition as long as it is not done in an arbitrary manner and that a candidate competing pursuant to such requisition does not have any vested right to claim selection, to be carried on. It is further observed that as per applicable Rules, post in question, in any case, is to be filled up by way of outsourcing. Writ petition was accordingly dismissed. Aggrieved therefrom present appeal has been filed.

5. Learned counsel for appellant vehemently argued that appellant having applied for the posts in question way back in 2016 had cleared the written test and was waiting for selections to be finalized. Withdrawal of requisitions for the posts by both the departments qua which appellant had given his option cannot be a ground to deny appointment to appellant. First and foremost requisition had been incorrectly withdrawn. It is not as if posts in question are not available. Secondly even if withdrawal of requisition is found to be correct, appellant should have been adjusted in some other department. It is thus prayed that this appeal be allowed, impugned order dated 15.10.2024 be set aside and writ petition be allowed as prayed for.

6. We heard learned counsel for appellant at length and perused the file carefully.

7. Issuance of advertisement No.5 of 2016 inviting applications for recruitment qua 210 posts of drivers in various departments of the State as has been detailed therein, with appellant having applied for the same with two of the departments i.e. Department of Animal Husbandry and Urban and Town Planning Department, is a matter of record. It is further not in dispute that appellant qualified written test held on 16.09.2018. Department of Animal Husbandry as

well as Urban and Town Planning Department withdrew the requisition. Perusal of website note dated 23.07.2024 (Annexure P-10) reveals that insofar as Town and Village Planning Department is concerned, it was informed vide communication dated 06.05.2024 that drivers are not required due to non-availability of government vehicles in the department and in respect to Department of Animal Husbandry, it is stated that in terms of communication dated 18.06.2021, vacant posts of drivers are to be filled through outsourcing as per the Punjab Animal Husbandry (Group C Service Rules) 2021 (hereinafter referred to as Rules, 2021).

8. It is a settled position that a candidate, even if selected, does not have an indefeasible right for appointment to the post in question. Gainful reference in this respect can be made to judgment of Hon'ble the Supreme Court in **Baitarani Gramiya Bank Vs. Pallab Kumar and others, 2003(4) SCT 321**, wherein it has been held that mere selection of a candidate does not create any indefeasible right to appointment. It was held that the employer is not under an obligation or a legal duty to fill up any or all of the vacancies as long as the reason thereof is *bona fide* and not arbitrary. This view has been reiterated in a number of subsequent judgments including in the judgment in **Tej Prakash Pathak Vs. Rajasthan High Court, 2024 SCC Online SC 3184**.

9. Learned counsel for appellant is unable to point out any material on record which indicates that withdrawal of posts in question is an arbitrary exercise on the part of respondents or is unjustified. It is also to be noted that in advertisement no.5 of 2016 (Annexure P-1) it is clearly mentioned that number of posts can be increased or decreased. In this respect reliance has been correctly placed by learned Single Bench on the decision of Hon'ble Supreme Court in Civil

Appeal No.4150 of 2022, titled “*Employees State Insurance Co-operation and Ors. Vs. Dr. Vinay Kumar and Ors.*”

11. Insofar as the argument raised on behalf of appellant that he should have been adjusted qua the post of driver, in any of the other departments as advertised, is devoid of any merit. It is to be noted that as per advertisement No.5 of 2016, a candidate was at liberty to give his option in respect to any or all Departments, to which he would seek appointment. Relevant clause no.6 thereof reads as under:-

“The applicant shall fill separate form for different code posts of driver and fee shall have to be deposited separately. The code under which the applicant shall apply he shall be considered under same code only.”

12. Admittedly, appellant did not apply for the post of driver in any of the other Departments, therefore, his request for being given an option, to be selected qua posts in other Departments, is not acceptable and has been rightly rejected by learned Single Bench.

12. Learned counsel for the appellant is unable to point out any illegality, infirmity or irregularity in the impugned order dated 15.10.2024, passed by learned Single Bench, which calls for any interference by this Court in this appeal.

13. Accordingly, this appeal is dismissed with no order as to cost.

**(LISA GILL)**  
**JUDGE**

**(SUKHVINDER KAUR)**  
**JUDGE**

22.01.2025

*Whether speaking/reasoned:*  
*Whether reportable:*

*Yes/No*  
*Yes/No*