

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

**CACP 18 of 2014
DATE OF DECISION :- April 22, 2015**

Amarjeet Paul

...Appellant

Versus

Dr. Simmi and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr. Arvind Mittal, Advocate for the appellant.

Mr. Paramvir Singh Sikand, Advocate for respondent no.1

Ms. Ritu Punj, Addl. Advocate General, Punjab.

M.JEYAPPAUL, J.

1. The appellant who was the 3rd respondent in CWP No. 18972 of 2012 challenges the sentence of simple imprisonment for a period of one month with a cost of ₹1 lac ordered by the Single Bench of this Court in the contempt proceedings initiated suo-motu as against him.

2. Heard the submissions made on either side.

3. The 1st respondent Dr. Simmi herein filed CWP 18972 of 2012 as against the appellant herein and two others praying for

issuance of a writ of mandamus directing the appellant to consider her candidature and appoint her to the vacant post of Rural Medical Officer advertised on 20.12.2011.

4. On facts, it is found that six candidates including Navneet Kaur had been selected in General Category and three candidates including the writ petitioner who was ranked in the 3rd position had been kept in the waiting list. It is not in dispute that Navneet Kaur who stood 1st in the General Category alone chose not to join the post and as a result of which, only one vacancy had arisen. Against that vacancy, Dr. Sofia Bhangu who stood 1st in the waiting list was appointed. The respondents herein also do not dispute that Dr. Balvir Kaur was in fact selected on 30.4.2011 during the previous recruitment itself and she was later on transferred. Dr. Parampuneet Gill who was appointed based on the recruitment in the subject selection was also transferred out of the district.

5. It appears that the above Writ Petition was laid by the 1st respondent Dr. Simmi based on Annexure P-3 emanating from the appellant. In the said communication under Annexure P3, the appellant herein had sent a report to the Director, Rural Development and Panchayat Department that three posts in the cadre of Rural Medical Officer in the General Category had fallen vacant.

6. In the additional affidavit filed by the appellant herein, the appellant has unambiguously admitted the fact that he had

inadvertently communicated to the Director of Rural Development and Panchayats under Annexure P3 that three posts in the cadre of Rural Medical Officer had fallen vacant having wrongly taken into account two posts which had fallen vacant on account of transfer from one district to another district.

7. It has been observed in the impugned order that the appellant had not chosen to explain as to how Dr. Balvir Kaur figured in the selection list in spite of the fact that her name did not find a place in the selection list or in the waiting list. Now it has been satisfactorily explained by learned counsel appearing for the appellant in the background of the above materials that Dr. Balvir Kaur was in fact selected on 30.4.2011 itself and that she has nothing to do with the current selection.

8. There was only one vacancy on account of the fact that Dr. Navneet Kaur did not join the post. The inconsequential vacancies of Dr. Balvir Kaur and Dr. Parampuneet Gill arisen on account of their transfer out of the district cannot at all be considered for the purpose of accommodating the candidates kept in the waiting list.

9. In our considered view, the impugned order has been passed as the appellant was not in a position to explain properly the above convincing fact that only one vacancy had arisen as one of the selected candidates had not joined service and that two other vacancies arisen out of the transfer of Dr. Balvir Kaur who had been

appointed pursuant to the earlier selection and Dr. Parampuneet Gill who was appointed pursuant to the current selection have nothing to do with the vacancy position assessed for accommodating the wait listed candidates.

10. The learned counsel appearing for the appellant would inform the Court that the appellant had already retired from service and the period of extension given to him had also come to an end as on 31.12.2014. It is his submission that he had put in an unblemished service in the department. It is also brought to our notice that 1st respondent Dr. Simmi has also joined duty as a doctor in the Health Department and as a result of which the Writ Petition filed by her was dismissed as withdrawn.

11. In view of the above facts and circumstances, we are of the view that the appellant had not intentionally filed affidavits with a view to misguide the Court. Therefore, the impugned order stands set aside and the appeal is allowed.

**(M. JEYAPPAUL)
JUDGE**

**(RAJ RAHUL GARG)
JUDGE**

April 22, 2015
p.singh