

2013 PLRonline 0006 (PH)

PUNJAB AND HARYANA HIGH COURT

*Before: A.K. Sikri, Chief Justice, Rakesh Kumar  
Jain, J.*

RAVINDERJEET SINGH - Appellant,

*Versus*

STATE OF PUNJAB and others - Respondents.

LPA No.2257 of 2011

08.04.2013

**Service Matter - Appointment to vacant posts –  
Allowed.**

*Mr.Vivek Sharma, for the appellant/petitioners.  
(in LPA No.2257 of 2011 and CWP No.4102 of  
2002). Mr.G.S. Bal, for the petitioner(s) (in CWP  
No.7308 of 2002), Mr.J.S. Puri, Addl. A.G. Punjab.  
Mr.G.S. Bal, Advocate, for respondents No.4 to 6  
(in LPA No.2257 of 2011).*

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**A.K. SIKRI, C.J. (ORAL)** - The facts which need to be recapitulated for deciding the controversy in this case lie in a narrow compass, are stated hereinafter.

2. In these cases, the respondents-Subordinate Service Selection Board [for short 'the Selection Board'] had issued advertisement No.3 of 1997 inviting applications for recruitment to various posts in the State of Punjab. These included posts of Soil Conservation Officers (Male). Para No.17 of the advertisement pertaining to the post of Soil Conservation Officers (Male) mentioned that there are 34 posts in all. It was also stated that the number of these posts can vary i.e. increase or decrease and the vacancy which may occur upto 31.3.1998 shall be filled up from the panel prepared on the basis of the said advertisement. Petitioners in both the petitions also applied for the said post. They were declared successful and letters were addressed to them by the Selection Board in this behalf stating that their names had been recommended to the Chief Conservator of Soils, Punjab, Chandigarh for appointment.

However, before the appointment letters could be issued, the post of Soil Conservator Officer was changed to that of Agricultural Inspector (which is again changed to Soil Conservator Officer). Since, the pay scales of the said posts of Agricultural Inspector were fixed after the change of nomenclature which was lesser than what was prescribed for the post of Soil Conservator Officer, the respondents asked the selected candidates to give an affidavit that they would accept the posts of Agricultural Inspectors in the pay scale prescribed for the said posts against the same selection and would not demand the higher pay scale. All these petitioners furnished the affidavits to this effect. The petitioners were not, however, given appointment letters and for this reason these petitions were filed in the year 2002 seeking writ of mandamus/issuance of direction to the respondents to appoint them to the said posts.

3. In the written statements filed by the respondents, it is mentioned that there were 39 vacancies of Soil Conservator Officer/Agricultural Inspector. The appointment letters were issued to 39 candidates in order of merit. However, 34 joined and 5 selected candidates did not join. It is further accepted that 4 candidates who were selected and were next in the waiting list according to their merit approached this Court by means of Civil Writ Petition No.15640 of 2002 which was decided by a Division Bench of this Court on 29.5.2003. While allowing that writ petition a direction was issued to the respondents to consider the cases of those petitioners and issue them letters of appointment for the post of Soil Conservator Officer in accordance with rules expeditiously. It is an admitted case that those four persons were given appointment. In this way 38 persons as against 39 vacancies have been appointed. Thus, on the basis of aforesaid admitted fact one more person can be accommodated.

4. We are informed that writ petitioner No.10 in CWP No.4102 of 2002 is next in order of merit. A direction is accordingly issued to the respondents to issue appointment letter to writ petitioner No.10 in CWP No.4102 of 2002, if eligible, or to the other person, if anyone is found to be higher in merit than writ petitioner No.10. We would

like to record the statement of learned counsel for the petitioner that there were 70 vacancies and therefore, all the petitioners can be accommodated. For this submission, learned counsel for the petitioners have referred to communication letter dated 27.11.2001, from Chief Conservation of Soils, Punjab to the Secretary of the Selection Board, meaning thereby that there are 70 vacant posts, however, it would be of no help to the petitioners because that was the vacancy position in the year 2001. In the present case, advertisement was issued on 15.9.1997 and the vacancies upto 31.3.1998 only were to be taken into consideration. If the vacancies have arisen after 31.3.1998 there had to be a fresh selection process and the persons who participated in the selection process pursuant to the order dated 1.5.1997 cannot take advantage thereof.

5. Civil Writ Petition No.7308 of 2002 is accordingly dismissed.

6. Second writ petition i.e. CWP No.4102 of 2002 is partly allowed with directions to the respondents to give appointment to one more person, who is higher in merit list and otherwise eligible. Appointment letter be issued, his pay shall be notionally fixed on the basis of his appointment from the date when four petitioners in CWP No.15640 of 2002 were given the appointment, and decision shall be taken within a period of one month from the date of receipt of certified copy of this order.

7. LPA No.2257 of 2011 is dismissed as having rendered infructuous.