

(2025) 01 SHI CK 1697
In the High Court Of Himachal Pradesh
Case No : CWP No. 6641 Of 2024

Vijay Kumar

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 07-01-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Code of Civil Procedure Act, 1908 — Order 17 Rule 3, Order 26 Rule 9
Punjab Land Revenue Act, 1887 — Section 101(1)

Citation : (2025) 01 SHI CK 1697

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Sunny Modgil

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this writ petition, the petitioner has, inter alia, prayed for the following relief:-

"i. Issue a Writ of mandamus directing the respondent department to implement (Annexure P-1) letter and spirit and provide appointment to the petitioner to the post of Multi Task Worker."

2. The case of the petitioner is that in terms of notification Annexure P-1 dated 22.04.2022, a recruitment scheme was notified for the recruitment of Multi-Task Workers, 5000 in all, in Himachal Pradesh Public Works Department. The petitioner participated in the process and in terms of Annexure P-3, he was placed at Sr. Number 2 in the waiting list, in respect of Nohradhar, Sub-Division HP. PWD, Nohradhar. It is further the case of the petitioner that Clause 9 of Annexure P-1, which dealt with waiting list provided that, for every selected candidate, a waiting list of two candidates will be prepared on merit, which will be valid for one year after the selection process is over and waiting list candidate

may be appointed if the selected candidate does not join the duty within stipulated period or if he or she leaves the job within one year of appointment.

3. According to the petitioner, one of the selected candidates Mr. Vivek Kumar did not join the post on the ground that he already stood engaged in the Education Department. Thereafter, the respondent-Department offered the post to the private respondent, however, he also did not respond thereto.

4. In these circumstances, the petitioner in terms of Annexure P-7, requested the respondent-Department to offer him appointment as he was at number 2 in the waiting list, however, as needful was not done by the respondents, hence he has filed this petition.

5. Learned counsel for the petitioner has submitted that as the private respondent did not respond to the letters written by the employer, to join the service after Shri Vivek Kumar had refused to join the post, the act of the respondents of not offering the same to the petitioner, who was at number 2 in the waiting list, is bad in law and accordingly he prayed that the petition be allowed and respondents be directed to offer the post to the petitioner forthwith.

6. On the other hand, the defence of the respondents is that though the petitioner was indeed number 2 in the waiting list and the private respondent, who was at number 1, did not join after he was called upon to join, but as in the interregnum the waiting panel stood exhausted, therefore, appointment could not be offered to the petitioner. Learned Deputy Advocate General has also argued to this effect only.

7. Learned Additional Advocate General on the last date of hearing was directed to produce the Departmental record relating to the recruitment process, which has also been produced for the perusal of the Court.

8. I have heard learned counsel for the parties and also carefully gone through the records.

9. A perusal of the record demonstrates that in the initial recruitment process, one Shri Vivek Kumar son of Shri Gulab Singh, was offered appointment by the Department for Nohradhar Sub-division. However, in terms of letter dated 20.08.2022, he informed the concerned Executive Engineer that as he already stood appointed in the Education Department, therefore he was not interested in joining the job. Thereafter, as per the record, Shri Ravinder Kumar i.e. the private respondent was directed by the Authorities to join the job, by offering him the post vide letters dated 01.09.2022 and 03.02.2023, however, he also did not join the post. This Court is giving the dates of the communications not on the basis of the dates mentioned in the pleadings, but on the basis of the dates which are there on the original communications in the official record of the respondents. Record further demonstrates that the petitioner in such circumstances, made a representation to the respondent-Department on 04.05.2023, followed by subsequent communications also to offer him the post

in question, however, this was not done.

10. Now incidentally, whereas the stand of the respondents is that the job was not offered to the petitioner as the life of the panel had expired, however, in Para No.9 of the reply, on merit, it stands mentioned that one year's waiting panel commenced on 11.08.2022 and it ended on 10.08.2023.

11. If that is so, then as the petitioner himself had requested the Authorities, vide Annexure P-7 on 04.05.2023 to offer him the post of Multi-Task Worker, which fact is not disputed by the respondents, this Court is of the considered view that delay on the part of the respondents in not timely offering the post in question to the petitioner, cannot defeat the right of the petitioner. Not only the respondents failed to offer the said post to the petitioner after the private respondent did not respond to their communications promptly, the respondent-Department failed in offering the same to the petitioner even after he had requested the Department to offer him the post, much before the expiry of the life of the waiting panel. In these circumstances, the act of the respondents of not offering the post to the petitioner on the ground that the life of the waiting panel had expired, is not sustainable in law, in the peculiar facts of this case.

12. Accordingly, this writ petition is allowed. The act of the respondents of not offering him the post on the ground that the life of the waiting panel is exhausted, is held to be bad and the respondents are directed to offer appointment to the petitioner against the post of Multi-task worker in PWD Department, Nohradhar Sub-division forthwith. Let needful be done within a period of 30 days from today. Departmental files stand returned back to the Officers concerned, present in the Court. Pending miscellaneous application(s), if any, also stand disposed of accordingly.