

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

\* \* \* \* \*

CWP No.1545 of 2008

Date of decision : September 30, 2008

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Pritam Pal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MR. JUSTICE M.M KUMAR  
HON'BLE MR. JUSTICE JORA SINGH**

\* \* \* \* \*

Present: Mr. Balkar Singh, Advocate for the petitioner.

Ms. Mamta Singhal Talwar, Assistnat Advocate General,  
Haryana for respondents no. 1 & 2.

Mr. Narender Hooda, Advocate for respondent no.3.

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgement should be reported in the digest?

**M.M KUMAR, J.**

Written statement filed on behalf of respondent no.3 in the Court today, is taken on record.

The petitioner has approached this Court with a prayer for

quashing advertisement no.14/2007 dated 9.11.2007 (Annexure P-9) advertising the twenty posts of Fireman. He has also sought direction to the respondents to appoint him on the post of Fireman as he was shown in the waiting list in respect of an earlier advertisement No.1/2007 issued in July 2007. It is conceded fact that the petitioner participated in the first advertisement and he was shown in the waiting list of candidates belonging to Scheduled Castes being at Sr. No.2 of the waiting list. According to the written statement filed by the Haryana Staff Selection Commission-respondent no.2, he cannot be offered appointment in respect of posts advertised earlier because no vacancy had remained unfilled. Appointment from the waiting list could have been possible only if a candidate from the original list did not assume charge of his assignment or any vacancy from this list remained unfilled for any other reason. Likewise, in respect of the second advertisement, the petitioner was considered but he could not be selected.

The only argument raised by the learned counsel for the petitioner is that against anticipated vacancy the petitioner should have been given appointment because the posts have become available which was revealed from the issuance of the second advertisement on 9.11.2007. According to the learned counsel, in any case, his performance even in the post advertised by the second advertisement was extremely meritorious and he deserves to be selected.

After hearing learned counsel, we are of the considered view that there is no merit in this petition and it is a frivolous piece of litigation because the State of Haryana has enacted **Haryana Civil**

**Service (Executive Branch) and Allied Services and Other Services Common/Combined Examination Act, 2002** (hereinafter referred to as 'the Act'). According to the various provisions of the Act, the Government is debarred from making any appointment beyond the posts advertised. The Act appears to have been framed in order to overcome the difficulties created by the concept of anticipated vacancy as laid down by Hon'ble the Supreme Court in the case of **Virender S.Hooda v. State of Haryana 1999 (3) SCC 696.** The provisions of the aforementioned act came up for consideration before the Hon'ble Supreme Court in the case of **Virender S.Hooda's v. State of Haryana (2004) 12 SCC 588.** Their Lordships have not only approved and upheld provisions of the Act even the retrospective operation of the Act has been approved. Therefore, there is no room to accept the argument that anticipated vacancy should be offered to the petitioner. With regard to the second advertisement, the petitioner has never been selected and cannot make any claim. It is well-settled that the Courts are not to act as appellate authority over the recommendations made by the Selection Committee. Accordingly, the writ petition fails and the same is dismissed.

**( M.M KUMAR )  
JUDGE**

**September 30, 2008**  
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**( JORA SINGH )  
JUDGE**