
(2014) 02 P&H CK 0048
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 6687 of 2010

Bansi Lal and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 26-02-2014

Acts Referred:

Citation : (2014) 176 PLR 315

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Rohan Mittal and Nilesh Bhardwaj, Advocates for the Appellant; Sunil Nehra, Sr. DAG, Advocates for the Respondent

Judgement

Augustine George Masih, J.—Petitioners have approached this Court praying for quashing of the selection process on the ground that the allocation of 33.5% marks for viva-voce as per the criteria formulated by the Haryana Staff Selection Commission for appointment to the post of Art & Crafts Teacher is excessive of the 12.2%, which was also said to be not permissible in Ashok Kumar Yadav and Others Vs. State of Haryana and Others, . Reliance has also been placed upon a judgment of the Supreme Court in the case of Jasvinder Singh and Others Vs. State of Jammu & Kashmir and Others, . It is the contention of the counsel for the petitioners that an advertisement was issued by the Haryana Staff Selection Commission (hereinafter referred to as "Commission"), in pursuance whereof, petitioners applied for the post of Art & Crafts Teacher. The criteria for the selection was not ever published by the Commission and it is at the stage when the result was declared that the criteria was made public along with the result. This, the counsel for the petitioners contends, is not sustainable as the criteria has to be published prior to the selection process. His further contention is that as per the criteria, the marks assigned for the academic qualifications are 60 and that for the interview are 30 out of total 90 marks, which comes to 33.5%, which is excessive for the post of Art & Crafts Teacher and thus, not sustainable.

2. Counsel for the respondents, on the other hand, contends that the claim of the

petitioner is not sustainable as the post, which has to be filled, is that of a Teacher where in the interview, the speaking, expressing and other capabilities of a candidate have to be assessed. A teacher is not supposed to be or required to be a mute spectator and not only his knowledge but the way of expressing and explaining, determine whether a Teacher is a good Teacher or not and for assessing the suitability of a candidate, proportionate marks for the said purpose have to be assigned. He places reliance upon a subsequent judgment of the Supreme Court in *Anjar Ahmad v. State of Bihar*, 1994 (1) SCT 483 , to contend that the viva-voce marks can be more than 12.2%. Reliance has also been placed upon a Division Bench judgment of this Court in the case of *Jagmal Singh Vs. State of Haryana*, where for the selection to the post of Teacher, interview marks up to 50% allocated has been upheld. Another Division Bench judgment in *Yashwinder Singh Rana v. State of Punjab*, 1995 (2) SCT 38 also supports the same position. Reliance has also been placed upon the judgment passed by this Court in CWP No. 11047 of 2010 titled as *Pearl Sidhu v. State of Punjab and others*, decided on 29.04.2013, where again the preposition that there can be more than 12.2% marks can be assigned in the interview has been upheld.

3. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of the case.

4. The first contention raised by the counsel for the petitioners that the criteria adopted for selection has not been made public, cannot be a ground for vitiating the selection process. Nowhere in the Statutory Rules or the instructions, it is provided that the criteria has to be first published prior to the selection. If there being no mandate of the Statute, it cannot be said that the criteria formulated by the Selection Committee prior to the selection process is required to be published.

5. Moving to the next submission that the marks for academics are 60 whereas for the viva-voce 30, which come to 33.5% of the total 90 marks, which criteria has been adopted by the Commission for selection and the 33.5% marks for interview being excessive, the same being violative of the judgments of the Supreme Court in the case of *Ashok Kumar Yadav (supra)* as also *Jaswinder Singh's case (supra)*, the said prepositions do not hold good as of now in the light of the subsequent judgments, which have been passed by the Supreme Court. Reference in this regard can be made to the judgments of the Supreme Court in the cases of *Lila Dhar Vs. State of Rajasthan and Others*, , *Inder Parkash Gupta Vs. State of Jammu and Kashmir and Others*, and *P.M. Latha and Another Vs. State of Kerala and Others*, . Apart from these judgments of the Supreme Court, Two Division Benches of this Court have considered this aspect with regard to having 50% marks for viva-voce test for selection to the post where the same has been upheld. Reference in this regard can be made to the judgments in *Jagmal's case (supra)*. The Division Bench was dealing with the selection of Teachers where 33.5% interview marks were allocated for the selection of Teachers which was held to be not excessive. In view of the above settled preposition of law by this Court, the grounds, which have been raised by

the petitioner for assailing the selection, cannot sustain.

6. That apart, none of the selected candidates have been impleaded as party respondents to the writ petition. This in itself is a good ground for not entertaining the writ petition. Finding no merit in the present writ petition, the same stands dismissed.