

(2014) 01 P&H CK 0264
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 21210 of 2011

Dr. Satinder Pal Singh and Another	Vs	APPELLANT
Haryana Public Service Commission and Others		RESPONDENT

Date of Decision : 08-01-2014

Acts Referred:

Citation : (2014) 01 P&H CK 0264

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : A.S. Tewatia, for the Appellant; H.N. Mehtani, Advocate for Respondent No. 1 and Mr. Sunil Nehra, Senior DAG Haryana for Respondents No. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioners have challenged the selection and appointment of respondents No. 4 to 13 to the post of English Lecturer on the ground that the petitioners have secured higher marks in the written test, but have not been selected, whereas the private respondents stood selected. It has further been specified in para-11(d) of the writ petition that the candidates bearing Roll Nos. 191, 133, 468 and 172 whose names find mention at Serial Nos. 33, 9, 7 and 34 respectively in the selection list (Annexure-P-4) were not interviewed. A further submission has been made by the counsel for the petitioners that the candidates who did not fulfil the cut-off percentage of 61% have been called for interview and ultimately selected ignoring the merit of the petitioners. On the basis of the submissions made by the counsel for the petitioners in this regard, affidavit was called for from the Haryana Public Service Commission, vide order dated 6.9.2012. In response to the said order, a detailed affidavit dated 26.9.2012/27.9.2012 has been filed by the Secretary, Haryana Public Service Commission. In the said affidavit, it has been mentioned that 45 posts of Lecturer in the subject of English in the general category were advertised. Three times of the number of posts advertised was fixed for calling

the candidates for interview. Initially 138 candidates were short listed and on scrutiny of the eligibility of the said candidates, 18 were found to be ineligible. As per the note attached to the result itself, candidates next in merit equal to the ineligible candidates were to be called for interview. The Commission fixed the interview dates on 8.8.2011, 9.8.2011 and 10.8.2011. At the time of the interview, 17 candidates on 8.8.2011, 12 on 9.8.2011 and 4 on 10.8.2011 were found to be ineligible. Thereafter, 31 candidates were called for interview on 26.9.2011 where again 4 candidates were found to be ineligible on account of not acquiring the Ph.D. degree in the subject of English till the due date of conduct of interview in terms of Announcement dated 25.7.2011. 37 ineligible candidates were found during the time of interview on various dates taken together. Thus, out of the merit list, 55 candidates in total were found to be ineligible either at the initial stage of scrutiny or during the interview. The candidates bearing Roll Nos. 191, 133, 468 and 172 were those who were called for interview in the light of these 55 candidates having been declared ineligible and were accordingly interviewed and as per their performance were granted marks and were selected resulting in their appointment.

2. Counsel for the petitioners submits that in the reply filed by the respondents, initially the stand of the respondents is not clear as to how the candidates referred to above were called for interview. However, in the additional affidavit, which has been filed by respondents, the position has been sought to be clarified, but there also the list (Annexure-R-3) was not published. He, however, states that the candidates, who have been selected, could not have been selected in the light of the fact that they were much lower in merit than the petitioner and could not have been called for interview as their names did not figure in the list which was circulated by the Commission of the candidates eligible to be called for interview.

3. On the other hand, counsel for the Commission submits that the candidates have been called for interview as per their respective merit and keeping in view the note incorporated to the result declared which clearly specifies that in case ineligible candidates are found, equal number of candidates according to the merit would be called for interview, so that the consideration zone ultimately fulfills the requirement of 3 times the number of posts advertised of eligible candidates for interview. He accordingly contends that the selection and appointment of the private respondents is in accordance with law.

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

5. The position as has been explained by the Haryana Public Service Commission in its affidavit dated 26/27.9.2012 clearly depicts the correct position with regard to the process which was adopted by the Commission for calling the candidates for interview. The position has been made amply clear about the various stages at which the ineligible candidates were found and thereafter the process of next in merit candidate being called for interview as per the note incorporated in the

result leaves no manner of doubt that the Haryana Public Service Commission had proceeded to call the candidates for interview for selection to the appointment to the post of English Lecturer as per the criteria laid down by the Commission. Marks in the interview are assigned on the basis of performance of the candidate at a given particular day of interview and, therefore, merely because candidates with lower marks ultimately are selected on the basis of marks granted in the interview cannot be a ground to vitiate the selection so made. However, it cannot be treated as a principle where some evidence is produced which would project a malafide exercise of powers by the interview committee at the time of selection, the same can be taken note by the Court. In the present case, no such evidence has come on record which would require the interference of this Court nor is malafides alleged. Finding no merit in the present writ petition, the same stands dismissed.