
(2016) 02 P&H CK 0230
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6692 of 2015

Gurinder Singh and Others	Vs	APPELLANT
Chandigarh Administration and Others		RESPONDENT

Date of Decision : 18-02-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16

Citation : (2016) 02 P&H CK 0230

Hon'ble Judges : Muttaci Jeyapaul and Raj Mohan Singh, JJ.

Bench : Division Bench

Advocate : M.K. Sood, Advocate, for the Appellant; Rakesh Sobti, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Raj Mohan Singh, J.—1. Petitioners have assailed order dated 05.11.2014 passed by Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as "the Tribunal") in Original Application No. 1567-PB of 2013 vide which the same was ordered to be dismissed.

2. Petitioners alleged that they have been working as Assistant Lineman on contract basis since September 2010 and their contract employment was periodically renewed by the respondents. Last contract of employment of the petitioners was renewed in the month of May 2013 for a period of six months which was expired in November 2013.

3. Petitioners further alleged that petitioners No. 1, 3 and 4 belong to General category whereas petitioner No. 2 belong to SC category. All the petitioners are having qualification of Matriculate with diploma of ITI in Electrical Trade. In the year 2010, respondents issued an advertisement for appointment to the post of Assistant Lineman on contractual basis for one year. The said contractual appointment was to be made on the basis of written test, practical and interview. Petitioners applied for the post of Assistant Lineman for which they were called

for written test and practical test and they appeared in the said tests as per schedule of the examination and cleared the same. Thereafter they were called for interview. Petitioners were given appointments and they submitted their joining reports and started working on the posts of Assistant Lineman. After the stipulated period of one year, their appointments were renewed by the respondents for further one year and after expiry of one year again extension was given for six months. After expiry of six months respondents again extended the contract period for further six months w.e.f. 08.05.2013 vide letter dated 06.05.2013.

4. Petitioners further submitted that since the initial appointment in the month of September 2010 till date, they have been working to the entire satisfaction of their superiors and no complaint whatsoever was received against their work and conduct.

5. In March 2010, respondent No. 4 invited application for appointment on the post of Assistant Lineman and Lineman on regular basis. There were total 67 vacancies of Assistant Lineman and 9 vacancies of Lineman. Application forms were invited upto 18.03.2010.

6. Pursuant to the aforesaid advertisement, petitioners had also applied for the post of Assistant Lineman. Written test was scheduled and the petitioners appeared therein and passed the same. They were called for practical test on the stipulated date and also cleared the same. Thereafter the petitioners were called for interview. All the petitioners participated in the process of interview and were quite hopeful of getting through the selection. The result was declared whereby 50 candidates were selected for the post of Assistant Lineman, but petitioners could not find themselves in the list of selected candidates and were shocked to see that the candidates having no practical experience made the grade.

7. Petitioners alleged that since marks secured by the selected candidates were not shown in the final select list, therefore, they sought to obtain information through RTI. At the time of filing of the Original Application, no such information was received by the petitioners. The selection was challenged before the Tribunal on the ground that the petitioners had been working as Assistant Lineman on contract basis and had already gained experience of about two years and their candidature was wrongly rejected as against 29 candidates selected against general category and 7 candidates selected under SC category, out of which big chunk of the candidates were totally freshers.

8. Petitioners further submitted that interview for the post of Assistant Lineman took place in the months of April 2012, but the result whereof was not declared till September 2013 and the declaration of result after more than one year was suffered with mala fides and favouritism in order to accommodate close kith and kin of the persons in command.

9. Petitioners also pointed out that the respondents deliberately did not show the marks obtained by the selected candidates and that itself was a ground to quash

the selection having suffered with vices of deliberations and mala fides.

10. Learned Tribunal vide order dated 05.11.2014 rejected the claim of the petitioners on the ground that the petitioners having participated in the process of selection and having failed therein, cannot turn round to say that the criteria for selection was bad.

11. Learned counsel for the petitioners contended that in the requisition for recruitment of Assistant Lineman the description of duties was given to assist the Lineman in Operation, Maintenance & Construction of Electricity System. In the qualification for the post of Assistant Lineman, qualification of Matric having been passed from recognised Board/University or equivalent, with ITI Trade Certificate in Lineman/Wireman/Electrician from a recognised institution or equivalent was prescribed. No written test was prescribed. Whereas in the requisition for recruitment of Lineman, the description of duties was Operation, Maintenance and Construction of Transmission and Distribution, Sub-Station and other allied Electrical works. In the qualification prescribed for the post of Lineman it was shown that

"(i) the candidates must be having qualification of Matric passed from recognised Board/University or equivalent with National Apprenticeship Certificate in the trade of Lineman or

(ii) ITI Trade Certificate in Lineman/Wireman/Electrician from recognised institution or Equivalent, with two years National Apprenticeship Certificate in the trade of Lineman or

(iii) 3/4 years Diploma in Electrical Engineering from recognised Govt. Institute/ Board and

(iv) Written/Practical test may be taken by the Department to judge the suitability of the post of Lineman."

12. In notice of public appointment, office of Superintending Engineer, Electricity Operation Circle prescribed the following details:-

The prescribed qualification for the above posts are the minimum and the mere possession of the same does not entitle candidates to be called for interview. The Department may restrict the number of candidates to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the Advertisement or by holding a screening test. The date & venue for above said interview/test will be intimated to eligible candidates in due course."

13. By referring to the aforesaid details, learned counsel for the petitioners submitted that for the post of Assistant Lineman no written test was prescribed as per requisition, whereas the Department laid the following criteria on approval from the Departmental Recruitment Committee:-

14. According to learned counsel for the petitioners, the criteria was substantially changed after the advertisement and requisition of post and no weightage/

preference was prescribed for the experience. Allotment of 70 Marks to Screening Test/Written Test was illegally adopted as a device to give effect to the process of the elimination as per aforesaid reproduced public notice.

15. Learned counsel for the petitioners has vehemently argued that the change of criteria as done by the respondents has vitiated the entire process of selection and their participation in the selection cannot be taken to be an instance of creating estoppel against them for challenging the same in court of law.

16. Learned counsel for the petitioners placed reliance upon *Rajesh Kumar Gupta & others v. State of U.P & others* , 2005 (3) RSJ 297, to contend that if the criteria is changed after the advertisement, then such a change should have been taken to be violative of the Article 14 and 16 of the Constitution of India and the candidates are entitled to challenge the criteria despite their participation in the process of selection.

17. It appears that in the cited precedent at the time of making the advertisement, the Scheme notified by the State Government was that entire merit list would be at the State level and not at the District level. The criteria was subsequently changed after filling of candidature of the candidates and candidates had no opportunity to protest and submitted themselves to the rigour of requirement in the process of selection and ultimately failed therein, the Court in that factual position held that the participation of the candidates in the changed criteria was on account of paucity of time and they had no adequate opportunity to assail the same, therefore, in such situation, the Court came to rule out any estoppel to challenge the selection.

18. No such situation arises in the instant case, wherein the petitioners had the advance notice at first hand and knowing fully well the nomenclature of the post and procedure, participated in the selection process and after having failed therein, their case is covered by the dictum laid in *Ramesh Chandra Shah & others v. Anil Joshi & others* , 2013 (5) Scale 397, wherein the Hon'ble Apex Court has observed that the candidates were aware of the prescribed criteria and having known the same they submitted their candidature to the process of selection and, therefore, at a subsequent stage they cannot question the validity of selection. Apparently as per contents of the public notice reproduced in the preceding para, a specific recital was made to the effect that the prescribed qualification for the posts are the minimum and mere possession of the same does not entitle the candidates to be called for interview. The Department can restrict the number of candidates to a reasonable limit on the basis of qualification and experience higher than the minimum qualification prescribed in the advertisement or by holding a screening test.

19. In view of aforesaid provision of holding a Screening Test/Written Test cannot be a ground to nullify the selection by alleging that the criteria was materially changed. The criteria published by the respondents in public notice was known to the petitioners before participating in the process of selection. Process of

elimination by holding Screening Test/Written Test is not uncommon and is a lawful mechanism to shortlist the number of candidates to a reasonable number.

20. Having considered the controversy on the touchstone of legal position, we are of the view that no illegality has been committed by the Tribunal in dismissing the Original Application on the ground of established legal position. Therefore, this writ petition is totally bereft of merit and is accordingly dismissed.