
(2010) 04 P&H CK 0306
In the Punjab And Haryana At Chandigarh

Meenakshi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Citation : (2010) 04 P&H CK 0306

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—This writ petition has been preferred by the petitioner challenging the selection and appointment of respondent No. 5- Lakhwinder Kaur as Hockey Player (Full Back) Female in the Northern Railway, Ambala Division on the ground that respondent No. 5 is less meritorious than the petitioner in the sports category and, therefore, the selection made by the respondents is biased and deserves to be set aside. A further prayer has been made that a writ in the nature of mandamus be issued directing the respondents to appoint the petitioner on the post of Group "D" Class-IV Staff under sports quota being fully eligible and meritorious.

2. Counsel for the petitioner contends that the Northern Railway Sports Division, Ambala Cantt vide advertisement dated 01.01.2009 invited applications for one Female Hockey Player (Full Back Position) for Railway Hockey Team. The petitioner fulfilled the eligibility criteria and, therefore, applied for the same as also respondent No. 5. The trial/interview was held on 30.03.2009. Three candidates were interviewed by the respondents but when the result was declared, respondent No. 5 was selected. He contends that the petitioner is much more meritorious than respondent No. 5 as she has much more achievements in the sports category than respondent No. 5. Since it is a practical game, the petitioner should have been selected on the basis of her better merit and achievements in the sports category. He further contends that the mala-fide on the part of the respondents is apparent that despite the petitioner having applied

well in time against the post advertised, she was not being allowed to appear in the trial/interview for recruitment in the sports category and thus had to file CWP No. 3235 of 2009 through her father titled as Sudhershnan Lal v. Union of India, wherein this Court, vide order dated 02.03.2009, directed the petitioner to be allowed to appear in the trial/interview for recruitment in the sports quota scheduled for 04.03.2009 as she fulfilled the criteria for eligibility. In pursuance of the directions issued by this Court, the petitioner was allowed to participate in the trial and interview was conducted and thus, intentionally the petitioner was not selected whereas respondent No. 5 was issued the appointment letter. He, on this basis, contends that the appointment and selection of respondent No. 5 cannot be sustained and deserves to be set aside and a direction be issued to the respondents to appoint the petitioner in place of respondent No. 5.

3. On the other hand, counsel for respondents No. 1 to 4 submits that the petitioner had earlier submitted her application for appearing in the trial/interview for recruitment in the sports quota in response to the advertisement dated 01.01.2009 under the backward class category but she had not deposited the fee for the said class, because of which she was not allowed to appear in the trial/interview. However, in the light of the directions issued by this Court in CWP No. 3235 of 2009 dated 02.03.2009, the petitioner was allowed to take trial and participate in the interview. He contends that there was no bias against the petitioner and a detailed criteria was laid down by the Selection Committee as per the Instructions for recruitment of sports persons on 30.03.2007 (Annexure R-1). As per the said Instructions, a Trial committee was constituted and the distribution of marks was also made as per the said Instructions. He referred to result-sheet where the details of the marks are given and the criteria as laid down. Due weightage was given to the sports achievements of the petitioner and was accordingly awarded the marks as per the criteria laid down. Further he relies upon the judgment of a Division Bench of this Court in the case of Anu Radha v. State of Haryana and Ors. 2009 (3) SCT 477 to contend that the petitioner having herself participated in the process of selection and at that stage, having not challenged the Constitution of the Selection Committee and the criteria laid down, is estopped from challenging the selection process and the selection proceedings. On this basis, counsel for respondents No. 1 to 4 prays for dismissal of the writ petition as the same is devoid of any merit.

4. I have heard the counsel for the parties and have gone through the records of the case.

5. As regards the contention of the counsel for the petitioner that the respondents were biased against the petitioner, suffice it to say that non-calling of the petitioner to appear in the trial/interview for recruitment in pursuance of the advertisement dated 01.01.2009 issued by the respondents-Railways, was justified as the required fee was not appended by the petitioner along with the application form. In any case, in the light of the directions issued by this Court on 02.03.2009 in CWP No. 3235 of 2009 titled as Sudershan Lal v. Union of India

and Ors. the petitioner was duly allowed to appear in the trial/interview for recruitment in the sports quota. Thus, the allegation of bias on behalf of the petitioner cannot be sustained.

6. As regards the contention of the counsel for the petitioner that the petitioner is much more meritorious than the selected candidate as the sports achievements of the petitioner are much higher than that of respondent No. 5 does not carry weight as due weightage has been given to such achievements. Reference, at this stage, need to be made to the Instructions R.B.E. No. 48/2007 (No. E (Sports) 2007/Policy/3, dated 30.03.2007 (Annexure R-1) for recruitment of sports persons on Indian Railways-Norms, Sports Quota, Procedure, Incentives etc. Rule 7.2.7 deals with the Trial Committee, which read as follows:

7.2.7 Trial Committee:

7.2.7.1 Trial Committee shall comprise three members, nominated by the Recruitment Committee.

7.2.7.2 Three members of the Trial Committee shall be: a Coach of the respective game (National/Railway/NIS qualified); a Senior International/ National level player in the relevant discipline; and an Assistant Sports Officer. If any Railway/Unit does not have any coach/player at the level mentioned above, they may seek the assistance of the adjoining Railway/Unit.

7.2.7.3 The trial by the Trial Committee shall be conducted in the presence of all the members of the Trial committee and Recruitment Committee. 7.2.7.4 Trial of candidate shall be conducted to assess his/her sports performance/suitability for the Railways. Trial Committee shall give its recommendation in terms of either FIT or NOT FIT for consideration for next stage, by giving marks as per the criteria given below:

(a) Maximum Marks for Trial: 35 (b) FIT Candidate : Candidate who secured 20 or more marks in the Trial. (c) NOT FIT Candidate : Candidates who secured below 20 marks in the Trial.

7.2.8 After trial, only the FIT candidates shall be considered for the next stage, i.e. Interview Stage by the Recruitment Committee. Recruitment committee shall take interview and award the marks only to the FIT candidates for their sports achievements, educational qualifications and general intelligence, etc. No marks shall be given to the candidates declared NOT FIT by the Trial Committee, for their sports achievements.

7.2.9 Recruitment committee shall also add the marks given by the Trial committee to the FIT candidates, in order to make the final merit list.

7.2.10 Interview of the candidates shall invariable be held on the same day, just after trial or at most next day of the trial.

Rule 7.2.11 deals with the Distribution of Marks, which reads as follows:

7.2.11 Distribution of Marks:

Maximum marks which can be awarded by the Trial committee for performance during Trial and Recruitment committee during Interview Stage, shall be as follows:

(i) Performance during Trial : 35 Marks (ii) Assessment of Sports : 50 Marks Achievements (iii) Educational Qualification : 10 Marks (iv) General Intelligence : 5 Marks personality etc Total : 100 Marks Notes: (a) In case more than one sports person score the same marks, preference should be given to younger candidate to decide the merit.

(b) Recruitment Committee shall recommend the case for recruitment of a Sports-person only when they are satisfied that he/she will be useful for the Railways.

7. This clearly spells out the Policy with regard to constitution of the Trial Committee and the holding of the trial and the distribution of the marks. Annexure R-2 is the selection proceedings showing the marks allotted under different heads to three candidates, who participated in the selection, which read as follows:

8. A perusal of the above leaves no manner of doubt that the selection was held in accordance with the Instructions governing the selection for appointment to the sports persons. There is no violation of the said Instructions and the same are in accordance with law and cannot be said to be arbitrary in any manner. For better sports achievements, the petitioner has been given proper weightage while granting the marks. There is no illegality committed in the selection process by the respondents.

9. In any case, the petitioner having participated in the selection process and having not objected to the said process and the criteria as laid down under the Policy Instructions at that stage, cannot now be allowed to take offence to such selection process and criteria. The petitioner, at this stage, has no right and local-standi to challenge the selection. Reference, can be made to the judgments of the Hon''ble Supreme Court in the cases of G. Sarana Vs. University of Lucknow and Others, , Raj Kishore Sharma v. State of Punjab 1993 (4) SLR 12 and Madan Lal and Others Vs. State of Jammu and Kashmir and Others, .

10. The petitioner having participated in the selection process and having failed in the same, is estopped from challenging the selection. In any case, as has been observed above, the selection process and the criteria laid down in the Policy Instructions R.B.E. No. 48/2007 (No. E (Sports) 2007/Policy/3, dated 30.03.2007 Annexure R-1 is reasonable and just and cannot be faulted with. The selection having been done in accordance with the said Instructions also cannot be said to be not in accordance with law.

11. Finding no merit in the present writ petition, the same stands dismissed.