

(2014) 08 SHI CK 0047
In the High Court Of Himachal Pradesh
Case No : CWP No. 9775 of 2013

Praveen Sharma

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Citation : (2014) 08 SHI CK 0047

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : J.R. Poswal, Advocate for the Appellant; Anup Rattan, Addl. A.G., D.K. Khanna and Deven Khanna, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Respondent No. 2 has issued an advertisement dated 19.10.2012 whereby applications were invited for filling up 9 posts of Naib Tehsildars (General=8 and SC of H.P.=1), Class-II (Gazetted). Petitioner also participated alongwith respondent Nos. 3 and 4 in the selection process. Screening test was held on 17.3.2013. Main written examination was held on 5.8.2013 and 6.8.2013. Result was declared on 8.11.2013. Petitioner and respondent No. 3 have secured 209 marks. Petitioner belongs to general category. Respondent No. 3 belongs to Scheduled Caste category. Name of respondent No. 3 has been recommended at Sr. No. 8 of the recommendation letter against the post of general category since he had come on his own merit in the list of general category candidate.

2. According to the Procedure and Transaction of Business and Procedure for the conduct of Examination, the marks obtained by the candidates in the main examination, written part as well as interview, would determine their final ranking and in the event of a tie, order of merit shall be determined in accordance with highest marks secured in the viva-voce and if the marks in the viva-voce of the candidates are equal, then the order of merit has to be decided in accordance with the highest marks obtained by such candidates in the

aggregate of the written examination.

3. In the instant case, petitioner and respondent No. 3 have secured 209 marks. Since respondent No. 3 has secured 35 marks out of 40 marks in the interview, he would rank higher in merit vis-a-vis petitioner.

4. Mr. J.R. Poswal has also argued that respondent No. 3 has been given disproportionately higher marks in the interview. The Court will not substitute its judgment on the wisdom of the Selection Committee. There is no mala fide attributed to the members of the Selection Committee.

5. It is settled that in case of vertical reservation, reserved candidates may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota. (see: R.K. Sabharwal and others Vs. State of Punjab and others, and (1996) 3 SCC 253.

6. Their Lordships of the Hon'ble Supreme Court in Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and Others, have held that if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under Open Competition category, though their Lordships have put a rider that this principle applies to vertical (social) reservations and not to horizontal (special) reservations.

7. Accordingly, in view of the analysis and discussion made hereinabove, there is no merit in the petition and the same is dismissed. Pending application(s), if any, also stands disposed of. There shall, however, be no order as to costs.