
(2008) 01 P&H CK 0086
In the Punjab And Haryana At Chandigarh

Promila and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-01-2008

Acts Referred:

Citation : (2008) 01 P&H CK 0086

Hon'ble Judges : Jaswant Singh, J; Jasbir Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Jasbir Singh, J.—By filing this writ petition, the petitioner has challenged selection to the posts of the S.S. Master/Mistresses which were advertised vide Advertisement No. 2/99 dated 14.11.1999. (It is not disputed that vide public notice dated 9.10.2004 posts of S.S. Masters were reduced from 2127 to 1270). After declaration of the result, various writ petitions were filed, wherein it was averred that fraud has been committed while selecting those candidates, because many candidates have not even passed the written examination, despite that they were selected. A prayer was made to institute a CBI enquiry. A bunch of writ petitions was disposed of by a Division Bench of this Court vide judgment dated 30.8.2005 (Annexure P-3). The main order was passed in C.W.P. No. 20066 of 2004, which reads thus:

We find that in view of the large number of petitioners and private respondents, it appears to us that this writ petition as also the connected matters will take years before they are completed for hearing. Moreover, it also appears that the controversy with respect to the facts of the cases cannot be gone into by us in these proceedings. We, therefore, deem it appropriate that the matter should be examined by the Government itself. We accordingly issue a direction that the Secretary, Education, shall either himself or a delegatee of his choice, not less than the rank of Joint Secretary; hear both the parties in the writ petition and pass such order as appropriate in the circumstances of the case. We also give liberty to the petitioners to file their representations with respect to their claims

within 15 days from today. The respondents may also file their reply within 15 days thereafter. Copies of the representations/replies be exchanged between the parties or on application shall be supplied by the office of the Secretary, Education. We would also request the Enquiry Officer to complete the entire proceedings within a period of four months from the date that the pleadings are completed. If the final order is made against the respondents, their services shall not be terminated for a period of one month from the date the order is served on them. We also give liberty to either of the parties to approach this Court in appropriate proceedings after the final decision is made by the Enquiry Officer. The amount of Rs. 1000/- deposited by each of the petitioner is directed to be returned to them.

2. Thereafter, the Government of Haryana instituted an enquiry and the Enquiry Officer, was an officer of the rank of Special Secretary to the Government of Haryana. After perusal of the whatever record, was made available, and recording statements of the complainants and the respondents, the Enquiry Officer submitted his report running into about 70 pages, on 21.8.2006 (the same has been put on record as Annexure P-4.) Now, in this writ petition, it has been prayed that selection to the posts in question be quashed, enquiry report be set aside and CBI enquiry be instituted to look into the entire matters.

3. We are satisfied that in the enquiry, so conducted, detailed discussion was made with regard to the objections raised by the complainant/petitioners. There were three type of objections raised by the complainant-petitioner, which are as under:

(i) That out of the selected candidates, some candidates have not passed even the written examination;

(ii) That the Commission has adopted discriminatory method while awarding marks at the time of interview;

(iii) That the selection was made under political influence.

4. With regard to objections referred to above, the Enquiry Officer observed as under:

1. It has been alleged by the petitioners that the respondents could not qualify the written examination held for this purpose and still they were able to manage their selection. They have based their allegation mainly on a newspaper report wherein the result of the written examination and the final result were published. It is a fact that the result of the written examination was published on 10.10.2004 in Dainik Jagaran wherein certain Roll numbers were misprinted. However, it is also a fact that the same result was published in other newspapers also i.e. Indian Express, Punjab Kesri and Hindustan Times. The respondents produced the copies of these newspapers wherein their roll numbers had been published in the list of qualifying candidates. In addition to it, they also produced copies of the interview letters along with the envelopes in which these interview

letters were posted bearing the postal stamps of both the Post Offices from where these letters were dispatched and where the same were received and delivered. On the perusal of the record received from the commission, it was found out that the result of only four candidates was withheld which was subsequently declared by way of a separate corrigendum. Therefore, merely because certain roll numbers were misprinted due to some laps at the level of a news paper, it cannot be said that there was an irregularity in the selection process. Moreover, the result published in other news papers had already clarified that misunderstanding and accordingly there was no cause for the petitioners to level this allegation which could not be sustained in view of the situation explained above. Therefore, this allegation of the respondents fails being without substance.

2. The second allegation of the petitioner was regarding the alleged discrimination by the HSSC in awarding marks for interview. They mainly alleged that they were given less marks in the interview and the respondents were given more marks in spite of the petitioners having performed better in the written examination. The relevant record of the commission was called in this regard and after the verification of record, it was found out that in certain cases the petitioners obtained less marks in written examination than the respondents. It was also revealed that some of the petitioners had been awarded more marks in the interview than the respondents. Therefore, prima-facie it does not appear that there was any discrimination at the level of the commission while awarding the marks in the interview. Apart from it, it has to be appreciated that the determination of marks in the interview is the sole prerogative of the commission after appreciating various aspects of the candidates like qualification, basic intelligence and other ingredients of the candidate's personality. However, in the present case prima-facie no discrimination is apparent on the face of record and therefore, this allegation of the petitioners also could not be substantiated. The so-called self assessment given by the petitioners could just be called imaginary. After perusal of the record it has been found that the claim of the petitioners that they solved more than 90% questions correctly and they were given zero percent marks in the interview has also been found baseless in the face of the record. Although the original mark sheets could not be procured from the commission because the same had been destroyed. However, the summary of the marks obtained by the respondents in the written examination as well as the interview could reveal that the selection of the respondent had been made under a valid process and allegation of pick and choose method adopted in the selection can not be substantiated in view of the record.

3. As far as the last allegation regarding the alleged political influence in the selection process of SS teachers is concerned nothing substantial was produced by the petitioners in this regard. Except an exchange of personal charges by a few candidates nothing is available in this regard. These personal charges also could just be called an exchange of personal bias. For example in writ petition No. 15311/2005 one Smt. Nirmala Devi W/o Sh. Karan Singh who could not

qualify the written examination has alleged against one of the respondents namely Sh. Raj Kumar. She has alleged that Raj Kumar had got fake certificate of medical fitness in spite of defect of one of his eyes by paying an amount of Rs. 10,000/- in this regard. Respondent Sh. Raj Kumar was called to join the enquiry and he produced medical certificate of his fitness. For the sake of prima-facie verification of this charge he was asked to read certain papers including news papers and he was found to have no problem in reading. Moreover, he tried to level a counter allegation that he had been working in the private school run by the petitioner and there was some dispute between them and the allegation against him was the result of personal vengeance. Therefore, the allegation of use of political influence is unfounded in the light of the above circumstances.

In view of the facts and circumstances explained above the allegations levelled by the petitioners in various writ petitions could not be substantiated. It appears that these writ petitions were the result of the frustration on the part of the petitioners due to their failure in their attempt for selection as SS teachers. Personal allegations levelled by the individual petitioners against the respondents may just be called an attempt to create issue out of nothing. No allegation levelled in the aforesaid writ petition could be substantiated and the enquiry report is concluded accordingly.

5. In view of the finding given above, we feel that the Enquiry Officer has given categorical findings that the complainants have failed to substantiate their allegations. It has been vehemently contended by counsel for the petitioner that the original record was destroyed and as such, it was not possible for the Enquiry Officer to enquire with regard to genuineness or otherwise of the selection.

6. We are not convinced with the arguments raised. It has been noted by the Enquiry Officer that the original marks sheet could not be procured because the same were destroyed, however rest of the record was available and perused by the Enquiry Officer. The findings was given by the Enquiry Officer after looking into summary of the marks obtained by the respondents, in the written examination as well as interview, which was made available at the time of enquiry.

7. In view of the facts mentioned above, it is not possible for us to interfere in the findings given by the Enquiry Officer and also on account of a fact that the petitioners have not impleaded the selected candidates as respondents.

8. Dismissed.