
(2013) 12 P&H CK 0080
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 18789 of 1997

Rajinder Kaur and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 21-12-2013

Acts Referred:

Citation : (2014) 3 SCT 196

Hon'ble Judges : Bharat Bhushan Parsoon, J

Bench : Single Bench

Advocate : Vikas Singh, for the Appellant; Yatinder Sharma, Additional Advocate General, Punjab for respondents No. 1 and 2, Mr. K.L. Arora, Advocate for respondents No. 3, 4 and 6 to 10 and Mr. G.S. Dhaliwal, Advocate for Mr. K.S. Grewal, Advocate for added respondents No. 1 to 7, 9 to 16, 18 to 25, 27 to 29 and 32, for the Respondent

Final Decision : Dismissed

Judgement

Dr. Bharat Bhushan Parsoon, J.—In this petition, selection and appointment of 43 Class-IV employees including respondents No. 3 to 10 and 1 to 32 subsequently added respondents is under challenge on the plea that the petitioners even though were more meritorious and experienced than selectees but were ignored. Claiming that interviews were held on 11/12.12.1996 by a Committee of three persons where the petitioners had also appeared, it is averred that the selection was neither made on merits nor was genuine and rather was laced with vires of favouritism. Few selectees were named by them. It is claimed that they did not have any experience, naming others it is mentioned that they are close acquaintances of persons who had also been named therein. It was further explained that few of the selectees were not even registered with Employment Exchanges and certificate of one was alleged to be bogus. Citing these circumstances as vitiating ones, it is further claimed that there were only 34 vacancies whereas 43 were appointed.

2. Claim of the petitioners has been challenged not only by respondents No. 1

and 2 in their joint written statement but also by respondents No. 3 to 4 and 6 to 10 who have preferred to file yet another written statement. Written statement from respondent No. 27 has also been filed separately.

3. The selection was made as per procedure and the rules. Further claim is that requisition had been sent to the Employment Exchanges when simultaneously process of selection of 15 sweepers and 24 Class-IV posts was initiated. Clarifying that neither any favouritism was done nor any violation of rules and procedure was made, legality and validity of appointments made, has been asserted. It was explained that 14 Class-IV and five sweepers already working on ad-hoc basis had also been selected. Private respondents have also asserted validity of the appointments made completely denouncing the allegations of the petitioners. It is claimed that merit, experience, higher qualifications were given due weight and no favouritism was done. Dismissal of the petition was sought.

4. Hearing has been provided to counsel for the parties while going through the paper book.

5. Claim of the petitioners is that number of vacant posts filled by this selection is more than the advertised posts and that the selectees are related to known very important persons and thus the selection is laced with favouritism as also with hidden bias against those candidates who did not have any relation or access to important persons who could approach in the matter of selection. It is also urged that the petitioners who are more qualified and experienced were left out whereas less meritorious and even inexperienced persons were wrongly selected.

6. Per contra, stand of official as well as private respondents is that neither any violation was made with regard to details given in the advertisement nor any positive or negative bias had any play in the selections. Validity and legality of the selections has been asserted.

7. Perusal of details of the paper book while considering the rival claims of the parties reveals that having been found unsuitable for selection despite having been given sufficient time in the interview, the petitioners are a disgruntled lot and have challenged the selections merely as a past time. It is also revealed that the petition has been preferred without verifying the facts and gossips have been put forth by the petitioners as facts which are non-existent.

8. By now, it is clear that selection process for filling 20 posts of peons and 15 posts of sweepers was initiated on 17.10.1996, when a requisition was sent to the Employment Exchange/District Welfare Officer, Fatehgarh Sahib. Later, 5 more vacancies of peons which were lying vacant had been added well before the selection process started.

9. In short, there were 25 posts of peons and 15 posts of sweepers which were to be filled up. A selection committee headed by Civil Surgeon, Fatehgarh Sahib with six more members was constituted. This committee had interviewed the

candidates on two dates i.e. on 11.12.1996 and 12.12.1996. Employment Exchange and other agencies had sponsored 474 candidates for class IV posts and 338 for Sweepers but about 211 candidates had appeared for interview for class IV posts whereas 137 candidates were interviewed for the posts of Sweepers. In addition, 30 employees working on ad hoc/temporary basis in District Fatehgarh Sahib had also attended interview on recommendations of the selection committee. Appointment to 25 peons and 15 sweepers was given. They are working on their respective posts since December, 1996. These vacancies were existing under Civil Surgeon, Fatehgarh Sahib and were meant for filling up due to deficiency of posts in various hospitals in the district. There was great need of sweepers, Dhobis, ward attendants etc. It is worth notice that there was no discrimination and 14 Class-IV and 5 sweepers who were earlier working on temporary basis (for 89 days) having been found meritorious than others with requisite qualification and experience were selected and given appointment. It is worth mentioning that assertion of the petitioners that selection committee consisted of three officers and further that District Family Welfare Officer was member of the selection committee, are averments unsusceptible on facts. It is also to be noticed that none of the selected candidates was having any relationship or close acquaintance with any of the members of the selection committee. Merely because some selectees were related to some officials of the Health Department who neither were associated in the selection process nor had any say therein is not a circumstance to question genuineness or bonafides of the selection. Rather, the selection process was so clear and transparent as also was in compliance with relevant instructions (Annexure R-1) that there is nothing to raise any accusing finger on the selection.

10. In the end, it may also be mentioned that representation of the petitioners (Annexure P-7) of 6.6.1997 was considered but was found without merit and sequelly was filed. Claim of the petitioners that selection of Smt. Karamjit Kaur was based on factually bogus testimonials also is found to be devoid of merit. Assertion of the official respondents that due to typographical mistake, she was shown to be wife of Hari Singh whereas she, in fact, is daughter of Hari Singh as is evident from Certificate (Annexure R-2) vide which she had qualified All India Secondary Education Board, Delhi Examination on 3.6.1996. It is claimed that selection is genuine.

11. Learned counsel for the official respondents has also sought support from *Anayat Rehman v. State of Jammu and Kashmir* 1998 (3) S.C.T. 795 (J&K), wherein it was held that once a candidate has participated in the selection process and had not been selected merely because number of seats filled were more than advertised, would not be a ground available to him to make grievance as his case was duly considered even against increased number of vacancies.

12. Though it is not a case of taking of more persons than number of seats for filling of which the selection process was started, even if there is any such case where there was an increase in number of vacancies and consequent selections,

there is no merit in the claim of the petitioners.

13. It may be noticed that there is no violation of the terms of requisition made to Employment Exchange and to other relevant agencies but it may be mentioned that the legal prohibition is only with regard to future vacancies, whereas there is no prohibition for making selections for anticipated vacancies. In Prem Singh and Others Vs. Haryana State Electricity Board and Others, it was clearly held that the selection process by way of requisition and advertisement can be started for clear vacancies as also for anticipated vacancies but not for future vacancies. Viewed from any angle, there is no substance in the writ petition and the same, being without any merit, is dismissed.