

(1999) 05 P&H CK 0097

In the Punjab And Haryana At Chandigarh

Case No : Civil writ petition No. 15640 of 1997

R.P. Khatak

APPELLANT

Vs

The Kurukshetra University, Kurukshetra and others

RESPONDENT

Date of Decision : 03-05-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 05 P&H CK 0097

Hon'ble Judges : V.K. Bali, J;A.S. Garg, J

Bench : Division Bench

Advocate : Mr. Bal Ram K. Gupta, for the Appellant; Mr. S.C. Sibal Mr. V.S. Rana and R. N. Lohan, for the Respondent

Judgement

V.K. Bali, J.—R. P. Khatak through present petition filed by him under Article 226 of the Constitution of India seeks issuance of writ in the nature of mandamus prohibiting the respondents from approving the recommendations made by the Selection Committee with regard to Bhagat Singh-respondent No. 4 as Lecturer in the Department of Ancient History and further to approve the recommendations made by the Selection Committee qua the petitioner and to place him at Sr. No. 1 in the panel.

2. The facts, as projected in the petition, reveal that respondent No. 4 did his matriculation in 1985, Senior Secondary (10 + 2) in November, 1987 and B.A. in June, 1989 whereas petitioner, did M.Phil in 1992 and started teaching. The Government of Haryana reviewed its reservation policy on November 9, 1994. The Scheduled Castes in Haryana were put in two categories, i.e. Block "A" and "B". In case suitable candidates from Block "A" were not available, candidates from Block "B" were to be recruited. Petitioner belongs to Block "A" category whereas respondent No. 4 belongs to Block "B" category. It is further the case of the petitioner that the new reservation policy was adopted by the respondent University w.e.f. September 9, 1995. The respondent University advertised number of posts in different departments on January 25, 1997 vide

advertisement, Annexure P-1. One post of Lecturer in Ancient Indian History was also advertised and it was reserved for SC candidates. The petitioner fulfilled eligibility requirements as prescribed vide Annexure P-1 and P-2. February 20, 1997 was the last date for submission of applications on prescribed form and petitioner applied prior to the last date. The Selection Committee interviewed the candidates on September 25, 1997 and the petitioner as also respondent No. 4 were also interviewed. Respondent No. 4 were recommended at Sr. No. 1 whereas petitioner was recommended at Sr. No. 2.

3. As mentioned above, the case of the petitioner is that inasmuch as the petitioner belongs to category "A" whereas respondent No. 4 belongs to category "B", petitioner had right of precedence for appointment over respondent No. 4. For his aforesaid contention, sole reliance has been placed upon policy, Annexure P-16, relevant part whereof, reads as follows :-

"(i) For the purpose of reservation in services, the scheduled castes in Haryana will be put in two categories, i.e., Block "A" and Block "B". Block "B" will consist of Chamars, Jatia Chamars, Rahgars, Raigars, Ramdasias or Ravidasias. Block "A" will consist of the remaining 30 scheduled castes listed in the annexure.

(ii) Within the quota reserved for scheduled castes in direct recruitment to Govt. jobs, 50% vacancies will be offered to candidates from Block A. In case suitable candidates from Block A are not available, candidates from Block B may be recruited against these vacancies."

4. Based upon the language employed in relevant clauses of the policy. Annexure P-16, learned counsel for the petitioner further contends that first 50% reserved seats have to go to block "A" candidates and it is only if suitable candidate is not found in the said category that the vacancy in the said category has to shift over to Block "B". Inasmuch as the petitioner was suitable, he ought to have had preference over respondent No. 4, who belongs to Block "B."

5. Pursuant to notice issued by this Court, respondents 1 to 3 have entered defence and filed written statement. It has, inter-alia, been pleaded that respondent No. 4 was at ST. No. 1 in the merit list and as advertised, this post was reserved for Scheduled Caste category and respondent No. 4 belongs to the said category. While giving the qualifications of respondent No. 4, it has been pleaded and the said respondent had also passed M.Phil, examination and also qualified UGC examination in 1994. Respondent No. 4 had passed his M.A. in Ancient Indian History and had to his credit 55.75% marks. It has been pleaded that there are two categories i.e. Block "A" and Block "B" for the purpose of reservation in service for scheduled castes in Haryana as per Annexure P-16. It has further been pleaded that in letter dated November 9, 1994 issued by the Government of Haryana to all the Heads of Departments, it is made clear that in case suitable candidates from Block "A" are not available, candidates from Block "B" were to be recruited against the vacancies. The Selection Committee interviewing the applicants, found respondent No. 4, although belonging to

scheduled caste Block "B" category more suitable and placed him at No. 1 in the panel. The plea of the petitioner that a candidate from Block "B" can only be appointed when candidate from Block "A" is not available has been denied and it has further been stated that as per Annexure P-16 it is clear that ill case suitable candidate from Block "A" is not available, the candidate from Block "B" may be recruited.

6. We have heard learned counsel for the parties and examined the records. We are, however, of the firm view that the petitioner does not have even a triable cause and, therefore, this petition deserves to be dismissed. The relevant clauses of the policy, as reproduced above, can only be interpreted to mean that whereas 50% seats are reserved for Scheduled Caste Block "A", remaining 50% are reserved for Scheduled Caste category Block "B". In case, therefore, suitable candidates in Block "A" are not available, to that extent, the vacancies meant for scheduled caste category Block "A" can shift over to Block "B". Vice-versa is also true. Even from their respective quotas, the vacancies have to be offered to the candidates from Block "A" or Block "B", as the case may be and in case suitable candidate in Block "A" is not available, candidate from Block "B" may be recruited. Same is the position with regard to quota reserved for SC category Block "B". To illustrate, if in a given case, there are ten vacancies reserved for SC category, five such vacancies have to be given to the reserved Block "A" whereas remaining five would go to the candidates belonging to reserved category Block "B". If, out of the quota of reserved category Block "A," two candidates are such who are not found to be suitable, to that extent, the vacancies would spill over and given to the reserved category Block "B". If all five candidates from each category, are found suitable, they will occupy their respective quotas and shall be given appointment. No situation of a kind that may lead to giving precedence to one category over the other arises in the present case at all as is clear and so admitted even during the course of arguments that insofar as respondent No. 4 is concerned, he was found far more meritorious than the petitioner and the vacant seat was only one. In a case of this kind, i.e., where there is only one seat, the contention of learned counsel, as noted above, can not possibly be accepted even if one may assume that precedence has to be given to Block "A".

Finding no merit in this petition, we dismiss the same, leaving, however, the parties to bear their own costs.

7. Petition dismissed.