

(2016) 08 P&H CK 0352

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 16504 of 2016 (O&M).

Smt. Shallu - Petitioner @HASH State of Haryana and Others

Date of Decision : 16-08-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16, Article 226

Citation : (2017) 1 SCT 203

Hon'ble Judges : Tejinder Singh Dhindsa, J.

Bench : Single Bench

Advocate : Rakesh Nagpal, Advocate, for the Petitioners

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J. - Challenge in the instant writ petition is to the selection and appointment of private respondent No.3 on the post of PGT (Economics) under the Haryana State Education Department. Further prayer is for the issuance of a writ of mandamus directing the respondents to appoint the petitioner on the post in question.

2. Brief facts that would require notice are that the Haryana School Teachers Selection Board issued an advertisement dated 07.06.2012 at Annexure P-1 inviting applications for recruitment of Post Graduate Teachers (PGTs) in different subjects. 449 posts of PGT (Economics) were advertised and out of which 279 were to be filled up from the General Category. The educational qualifications prescribed for the post of PGT (Economics) was "M.A. Economics/Applied Economics/Business Economics with at least 50% marks and B.Ed. from recognised University". Petitioner, being eligible, applied for the post of PGT (Economics) under the General Category. The criteria adopted by the respondent/ Board for making selection to the post of PGT was in terms of assigning 67 marks towards academic qualifications and 33 marks for viva voce/interview i.e. a total of 100 marks. Petitioner appeared in the viva voce/interview and the final result was declared on 16.12.2013. Needless to observe that the petitioner's name did not figure in the final select list.

3. Counsel would submit that the details of marks obtained in the academic qualification as well as viva voce/interview were posted on the website of the respondent/Board and as per which last selected candidate i.e. respondent No.3 has been granted 28 marks in the viva voce/interview out of a total of 33 marks whereas petitioner has been awarded only 12 marks. It is contended that in the academic qualifications, the petitioner had secured 40.43 marks as opposed to 26.4 marks secured by respondent No.3 and by adopting a methodology of awarding unduly high marks to private respondent No.3, she has managed to secure a total of 54.43 (28 + 26.4) marks as opposed to the petitioner who has secured a total of 52.43 (12 + 40.43) marks. Argument raised is that in spite of the last selected candidate having inferior academic qualifications and having secured less than 30 marks out of a total of 67 marks, yet very high marks have been awarded in the viva voce/interview so as to ensure her selection and the petitioner who had secured 40.43 marks in the academic qualification has been deliberately under assessed at the stage of viva voce/interview and has been awarded only 12 marks. As per counsel, such methodology has been adopted with an ulterior motive and only to favour private respondent No.3.

4. Learned counsel has also referred to the instances of about 10 other selected candidates and furnished in para 11 of the petition to highlight that these are candidates who had also secured low marks in the academic qualifications but yet have been granted unduly high marks in the viva voce/interview to ensure their selection.

5. Learned Counsel for the petitioner has been heard at length and pleadings on record have been perused.

6. In the considered view of this Court, the aspect as regards other candidates belonging to the General Category and having been awarded a high grading at the stage of viva voce/interview and such candidates having fared poorly in the criteria assigned towards academic qualifications need not to be gone into. Such view is being taken as the petitioner has not assailed the selection process as a whole for the post of PGT (Economics). Rather she is seeking a writ of mandamus for directing the respondents to appoint her to the post of PGT (Economics) against General Category in pursuance to the same very process of selection.

7. Insofar as challenge to the selection and appointment of private respondent No.3 is concerned to the post of PGT (Economics) i.e. the last selected General Category candidate, the petitioner has not raised allegations of malafide against the Members of the Selection Committee or the Board. Only bald averments have been made that private respondent No.3 has been awarded unduly high marks in the viva voce/interview to ensure her selection. This, however, cannot be made the basis for this Court to record a sweeping conclusion that the respondent/Board has resorted to underplay the merit of the petitioner by awarding her less marks and on the other hand having deliberately awarded high marks to private respondent No.3 to ensure her selection. The scope of judicial review as regards

recommendations made by a recruiting agency is extremely limited. The High Court cannot make a roving inquiry to fish out material to sustain the challenge as regards selection of any particular candidate nor can the High Court draw dubious inferences of arbitrariness or mala fide exercise of power on the basis of bald averments made in the petition. This Court would also not sit in appeal over the assessment of any individual candidate made by the respondent/Board and would not take upon the role of a supervisory authority and reevaluate the performance of a candidate at the viva voce/interview merely because a whisper of favouritism has been levelled. It is only in cases of patent arbitrariness or violation of some statutory or constitutional provisions that this Court would intervene. In *Madan Lal and others v. State of Jammu and Kashmir*, AIR 1995 SC 1088, the Supreme Court had reiterated the well recognised principle that the High Court should not interfere with the recommendations made by the recruiting agency at the instance of candidates who appear in the selection but are not selected.

8. There is another aspect that has weighed with this Court to decline interference. The final result was declared in December, 2013. Counsel concedes that the marks awarded against academic qualifications and viva voce/interview were posted on the website soon thereafter. Appointment letters in favour of the selected candidates were also issued in close proximity to the date of declaration of the final result. The petitioner has chosen to sit over the matter over a period of almost 30 months. In matters relating to selection and appointment, an aggrieved candidate would be expected to be vigilant about his/her rights and would be obligated to agitate his/her grievance without any delay. Instant petition has been filed belatedly and there is no plausible explanation coming forth for the delay that has been caused.

9. For the reasons recorded above, no interference in the matter is called for.

Writ petition is dismissed.