

**(2003) 07 P&H CK 0038**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Writ Petition No. 1096 of 1983**

|                                |    |            |
|--------------------------------|----|------------|
| Vinod Gupta and Others         | Vs | APPELLANT  |
| The State of Punjab and Others |    | RESPONDENT |

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**Date of Decision :** 02-07-2003

**Acts Referred:**

**Citation :** (2003) 135 PLR 204

**Hon'ble Judges :** Satish Kumar Mittal, J

**Bench :** Single Bench

**Advocate :** Balram Gupta and Vikas P. Singh, for the Appellant; Swati Gupta, A.A.G., for the Respondent

**Final Decision :** Dismissed

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## Judgement

Satish Kumar Mittal, J.—This judgment shall dispose of Civil Writ Petition Nos. 1096, 2687, 3489 and 5689 of 1983, as the common questions of law and facts are involved in these petitions. With the consent of the parties, the facts are taken from Civil Writ Petition No. 1096 of 1983. In these petitions, the petitioners have challenged the selection and appointment of 571 PCMS Class-II doctors selected by the Punjab Public Service Commission (hereinafter referred to as "the Commission") vide selection lists published on 30.12.1982 (Annexure P-3) and 1.1.1983 (Annexure P-4).

2. On 24.4.1982, the Commission made an advertisement for recruitment of 800 posts of Medical Officers in PCMS Class-11. As per the advertisement, out of these 800 posts, 200 posts were reserved for Scheduled Castes and Scheduled Tribes, 40 posts for Backward Classes and 120 posts for Ex-servicemen. The essential qualifications to be possessed by a candidate for aforesaid posts were prescribed as-

(i) M.B.B.S. (Punjab) or any other equivalent degree of any other University recognised by the Medical Council of India.

(ii) Must be permanently registered as a Medical Practitioner with the other Medical Council or with other Medical Council in Indian Union. The candidates having Post Graduate qualifications and experience of professional work will be preferred.

3. The last date for submitting the applications was fixed as 24.5.1982. Later on, on 5.6.1982, a corrigendum was issued and the last date for submitting the applications was extended up to 16.8.1982. In response to the aforesaid advertisement, more than 1700 applications were received by the Commission. In order to make the selection, the Commission constituted a selection Committee comprising of the Chairman and four Members of the Commission, namely, respondents No. 3 to 7. The retired Director of Health Services, Haryana, Dr. P.R. Sondhi was associated as a Technical adviser. The said selection committee took the interviews of all the eligible candidates from 11.11.1982 to 13.12.1982. During that period, however, 1600 candidate were interviewed. On 29.12.1982, the result of the interview was declared and a selection list was issued in which only 571 candidates belonging to the following categories were selected and recommended for appointment as PCMS Class-II:-

"Category

Vacancies

Selected & Recommended to the Govt.

Deficiency

General

440

440

-

Scheduled Castes

200

109

91

Backward Classes

40

15

25

Ex-servicemen

120

7

113

Total

800

571

229"

4. The petitioners have challenged the aforesaid selection in the instant writ petitions on the grounds that the last date for submitting the applications was extended illegally and with an oblique motive. It has been stated that the last date for submitting the applications was deliberately extended up to 16.8.1982 only with an oblique motive to adjust respondent No. 10-Dr. Santokh Singh, who is the son of the brother of Chaudhary Sunder Singh, the then Member of Parliament, who is father-in-law of the Chairman of the Commission. It has been alleged that the aforesaid Dr. Santokh Singh was not eligible to apply for these posts on 24.5.1982 and he only became eligible after 30.6.1982 and the aforesaid extension of time was made only with the sole object to make him eligible to apply against the aforesaid post. It has been also alleged that no definite criteria for selection was made. Each of the five members of the Selection Committee were assigned 40 marks each for interview, but no marks were allotted to the Technical Expert members. It has been further alleged that all the members of the Selection Committee did not interview all the candidates. It has been further alleged that the Selection Committee interviewed the various candidate for not more than two minutes and totally irrelevant questions were put to the candidates. It has been also alleged that the Technical Expert member did not ask any question to any candidate and he was having no say in the selection of the candidates. The other members of the Selection Committee did not possess any knowledge of medicine, consequently, they were not equipped to assess the comparative merit of the candidates. It has been further alleged that several candidates, who have passed their M.B.B.S. Course in several attempts and with much lower percentage and without any extra qualification and experience, had been selected and the persons like the petitioners, who were more meritorious having more qualification and experience, have been illegally ignored. It has been further alleged that the selection made by the Selection Committee was absolutely unfair and based on extraneous consideration and favoritism. No credit whatsoever had been given for the academic excellence, experience etc. Different members of the Selection Committee were present at different interview sessions. It has been also submitted that against the reserved category of 360 posts, only 147 candidates were selected, when 213 posts of reserved category were available. The Commission should have thrown those reserved posts to the general category candidates and the same should have been filled from the candidates belonging to general category. Had it been done, then all the petitioners would have been selected against the aforesaid

advertisement. It has been also alleged that when a corrigendum of the result was published on 1.1.1983, names of so many candidates declared selected in the earlier selection list, were, dropped and in their place new candidates were declared as selected. This fact establishes that everything was not fair in the selection.

5. In the written statement filed by the Commission and the other official respondents, i.e., respondents No. 2 to 4 and respondents No. 6 and 7, all the allegations levelled in the writ petition have been denied. Regarding extension of time, it has been stated that the answering respondents received large number of representations from the candidates, who were undergoing internship at the relevant time and which was to be finished up to 20.6.1982, making request for extension of time. Keeping in view those representations, the last date for submitting the applications was extended. It was specifically denied that the last date for submitting the applications was extended for any extraneous consideration or to do favour to Dr. Santokh Singh (respondent No. 10). Regarding conducting of interview of the eligible candidates, it has been pleaded that over 1600 candidates were interviewed from 11.10.1982 to 12.13.1982. Each and every candidates were given 10 to 15 minutes for interview. It has been specifically denied that Technical Expert did not ask any question. It has been averred that as per the procedure adopted, the Technical Expert interviewed the candidates in the first instance. He asked the questions pertaining to technical matters only. Subsequent to him, a candidate was subjected to questioning by the other members who asked questions to test his general knowledge, intelligence, social awareness, responsibilities and duties to the society and the State. Regarding the selection criteria adopted by the Commission, it has been averred that the Technical Expert was authorised to give grade to each candidate interviewed which was kept in view by the other members of the Selection Committee while allotting marks for the interview. It was denied that the Technical Expert was having no say in the selection process. Regarding the non-recommendation of the general category candidates against the unfilled reserved vacancies, it has been stated that as per the instructions issued by the Government, whenever suitable candidates against the reserved posts were not available, then those posts should be filled from amongst general category candidates after clearance from the Social Welfare Department through the concerned department. The Commission at the time of forwarding the list of the selected candidates had requested the Government to send the requisite No Objection Certificate so that names of suitable 229 candidates from amongst the general category might be sent to them, but no such No Objection Certificate was issued by the Government.

6. Regarding the mistakes in publication of result in the newspaper, it has been stated that several mistakes were made in publication of the result by the newspaper. When the Commission brought this fact to the notice of the Chief Editor of the concerned newspaper, the correct list was subsequently published and regrets about wrong publication was also published by the said newspaper. It

is also mentioned that the result of the selection was also published in other newspapers, but there was no mistake in the publication of the result in those newspapers. Therefore, the allegations levelled by the petitioners in this regard against the Commission were pleaded to be incorrect and without any substance.

7. Regarding the allegation of the petitioners to the effect that the total marks in the interview were fixed as 200, has been denied as totally incorrect and baseless. It has been averred that the total marks for interview were fixed as 100, out of which 60 marks were allotted entirely for academic record, professional experience and other attainments such as worthwhile papers in profession, written and published in recognised journals and sports achievements. Only 40 marks were allotted for interview performance which was to be assessed by the Members on the basis of assessment made by the Technical Expert. The allegation of the petitioners is that no definite criteria was formulated before selection was done. It has been stated that the selection by the Commission was wholly fair and based on relevant rules and procedure, free from any extraneous consideration and favouritism.

8. In the aforesaid/petition, the petitioners have not impleaded all the selected candidates. Only few selected candidates have been impleaded as respondents No. 9 to 100. Even the impleaded respondents have not been served and the petitioners got deleted the names of the unserved respondents vide order dated 21.11.1985.

9. I have heard the arguments raised by the learned counsel for the parties and have perused the record of the case.

10. The learned counsel for the petitioners has raised four submissions. Firstly, he submitted that the last date for submitting the application forms was wrongly extended up to 16.8.1982 and that too, after expiry of the last date for submitting the application forms. According to him, this was done only to accommodate respondent No. 10-Dr. Santokh Singh who happens to be a close relative of the Chairman of the Commission (respondent No. 3 herein). The learned counsel referred to the affidavit dated 1.3.1983 filed by one of the Members of the Commission (respondent No. 5) before the Hon'ble Apex Court in which he had alleged that the last date for submitting the application forms was extended to accommodate one of the relative of the Chairman of the Commission. On the basis of the aforesaid affidavit, the learned counsel for the petitioners submitted that the aforesaid extension in the last date for submission of application forms was made with an oblique motive.

11. I am unable to accept the aforesaid contention raised by the learned counsel for the petitioners. The learned counsel for the petitioners could not dispute the power of the Commission to extend the last date for making the applications. However, he has submitted that the aforesaid power was exercised by the Commission with oblique motive. I do not see any motive behind extension of time in submitting the application forms. The selections were to be made by the

Commission on 800 posts. As per the allegations of the petitioners themselves, only 1500 applications were received up to 24.5.1982. Large number of candidates who were doing internship at the relevant time could not make applications against the aforesaid advertisement and on their representations, the answering respondents extended the date for submitting the application forms. Thereafter, hundreds of candidates applied by taking the benefit of extension of time. The allegations made by the petitioners in this regard are totally based on conjectures. As far as relation of respondent No. 3 with respondent No. 10 is concerned, the same is also a remote relation and from it, it cannot be inferred that the Commission extended the time only to accommodate respondent no. 10. Therefore, I find no substance in this argument of the learned counsel for the petitioners.

12. Secondly, learned counsel for the petitioners submitted that the Commission adopted totally unreasonable and arbitrary process of selection. He submitted that out of five Members of the Selection Committee, all Members did not interview all the candidates. Some time, four Members participated in the interview and some time three Members were participated. The learned counsel has further submitted that no marks were allotted to the Technical Expert. In the aforesaid procedure adopted by the Commission, the uniform objective assessment of all the candidates were not possible. Only two minutes time was given to each candidate and irrelevant questions were asked by the Members. The learned counsel further submitted that the Technical Expert did not ask any question and he was having no say in the whole selection process. According to the learned counsel for the petitioners, the interview process adopted by the Commission was a nullity in the eyes, of law. I have also considered this aspect of the matter and am of the opinion that there is no substance in this contention of the learned counsel for the petitioners. In my opinion, the Commission adopted a fair and reasonable criteria for selection. Total 100 marks were fixed for the interview: 60 marks were based on academic record, experience and other curricular activities and only 40 marks were allocated for the subjective satisfaction of the Members on the basis of variety of questions asked by the Members and the Technical Expert. I do not find any infirmity and illegality in the aforesaid process of selection. The allegations made by the petitioners in this regard are without any basis and the same have been levelled in a most casual manner. In view of the written statement filed by the official respondents. I do not find any substance in those allegations.

13. Thirdly learned counsel for the petitioners submitted that there was a great bungling in declaration of result of the selection. If the result declared vide Annexure P-3 and the correction made vide Annexure P-4 are compared, then it appears that many candidates, who were earlier not selected, have been declared and many candidates who were earlier selected were declared not selected. This shows that large scale hanky-panky was done in the selection. I also do not find any substance in these allegations. Merely because some mistakes were committed by the newspaper in publishing the result, it cannot be

said that hanky-panky was done by the Commission while declaring the result. The Chief Editor of the newspaper had not only regretted the mistake Committed by the newspaper but also published the correct list of the selected candidates supplied by the Commission. Not only this, in the other newspaper, the result of the selection was rightly declared and there was no mistake in those publications. Merely because there were mistakes in one publication in a particular newspaper, it does not mean that the selection was not fair. Therefore, I do not find any substance in this argument of the learned counsel for the petitioners.

14. Lastly, learned counsel for the petitioners submitted that many candidates who passed MBBS in many attempts were selected and the other candidates who were having better experience, were not selected. I do not find any substance in the aforesaid contention of the learned counsel for the petitioners. The Selection Committee had given proper weightage to the academic record, experience and other extra-curricular activities of the candidates as well as their performance in the interview which was subjectively assessed by each Member of the Selection Committee, including the Technical Expert. This court cannot go into the mental process of selection made by the Selection Committee in absence of any material which establish the unfair and unreasonable selection. I do not find any unreasonableness, favouritism and nepotism in the impugned selection.

15. Even otherwise, the selection was made twenty years back. All the selected candidates are performing their duties for their last twenty years. All the selected candidates have not been impleaded as parties in the instant writ petition. Only few selected candidates have been impleaded. Even they have not been served and subsequently they have been deleted by the petitioners themselves. I have been informed that during the pendency of the instant writ petition, most of the petitioners have been selected, appointed and adjusted in life and now they are not available for appointments on the posts in question.

16. In view of the aforesaid discussion. I do not find any merit in these writ petitions and the same are hereby dismissed, with no order as to costs.