

(2010) 08 P&H CK 0350
In the Punjab And Haryana At Chandigarh

Virender Singh

APPELLANT

Vs

Haryana Staff Selection Commission

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 08 P&H CK 0350

Hon'ble Judges : Ritu Bahri, J;M.M. Kumar, J

Bench : Division Bench

Judgement

Ritu Bahri, J.—This Letter Patent Appeal has been filed against the judgment dated 19.7.2010 passed by Learned Single Judge whereby he has dismissed the Civil Writ Petition.

2. The appellant was aggrieved against the action of the respondent-Commission to adopt a criteria for short listing the candidates for interview on the basis of minimum cut off marks.

3. An advertisement for the various posts was published by the Haryana Staff Selection Board on 28.10.2008. Keeping in view the large number of applications, the Commission decided to shortlist the candidates 08 times of the advertised posts in their respective categories for appearing in the interview and accordingly, it has provided minimum cut off percentage for each category. For general category, the percentage provided is minimum 70%, whereas for Scheduled Caste, it is 69%.

4. The petitioner challenged this criteria in the writ petition by contending therein that it would be more reasonable and rationale to have the entrance test.

5. The learned Single Judge has placed reliance on a decision of this Court rendered in Civil Writ Petition No. 9323 of 2009 decided on 16.7.2009 upholding the condition prescribed in the commission regarding fixation of cut off marks for short listing the candidates.

6. Mr. Harpreet Singh Rakhra, Advocate, learned Counsel for the appellant has contended that a different criteria regarding cut off marks prescribed by the commission for the eligibility of the candidates belonging to different categories has been fixed. In Union of India (UOI) and Others Vs. S. Vinodh Kumar and Others, , the facts of the case were that the appellant Railways, while making recruitment for the post of "Gunman" in the Railway Department, fixed the criteria for the different categories. 71 marks were fixed for general category; 56 for other backward classes; 20 for scheduled castes; and 20 for scheduled tribes. The cut off marks, as per the number of posts, advertised and calculated were fixed. Against the post, the cut off marks at 71 had been fixed for unreserved candidates on the basis of the marks obtained by the last candidate, i.e. 240th candidate, calculated at 50% of the 480 candidates. Regarding the fixation of this eligibility criteria, the Hon''ble Supreme Court has held that this decision of the Railways was not arbitrary so as to offend the principles of equality enshrined under Article 14 of the Constitution of India. The power of employer to fix the cut-off marks if fixed on a rational basis, no exception thereto can be taken.

7. A candidate does not have any legal right to be appointed. He, in terms of Article 16 of the Constitution of India, has only a right to be considered therefor. Consideration of the case of an individual candidate although ordinarily is required to be made in terms of the extant rules but strict adherence thereto would be necessary in a case where the rules operate only to the disadvantage of the candidates concerned and not otherwise.

8. In view of the observation of the Hon''ble Supreme Court, the petitioner has no legal right to call for interview. The judgment passed by the learned Single Judge does not call for any interference and as such it is affirmed and Letter Patent Appeal is dismissed.