

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.10314 of 2015 (O&M)
Date of decision: 21.05.2015**

Malkeet Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Ashwani Bakshi, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner is stated to have participated in the selection process undertaken by respondent No.3-Haryana School Teachers Selection Board for the posts of Post Graduate Teachers (Physical Education) B.C. Category (other than Mewat Cadre) in the department of Secondary Education, Haryana advertised vide Advertisement No.01/2012, and is aggrieved by criteria adopted in the selection list dated 31.07.2014 (Annexure P-11), whereby in the general category, the cut of marks of the last selected candidate was 55.77, whereas for BC category, it was 54.09. In BC category 10 candidates were declared selected and maximum marks obtained by any selected candidate in BC category were 55.00.

Learned counsel for the petitioner submits that the petitioner remained un-successful for the reason that he was awarded total 52.80 marks i.e. 36.80 for academic qualification and 16.00 for interview, however, the respondent-authorities have not given any marks for his BPEd degree. The marks prescribed in the criteria for B.Ed qualification i.e. 0.5% have not been awarded because of his having passed BPEd instead of B.Ed and thus, the petitioner has been discriminated. It has further been submitted that action of the respondents in denying the marks to the petitioner for his BPEd degree for the post of PGT in Physical Education is perverse, unfair and untenable.

I have heard learned counsel for the petitioner and appraised the paper book.

The matter with regard to challenge of the criteria and participation in the interview has already been pondered upon by me in judgment dated **11.05.2015 passed in CWP No.12392 of 2011 titled as Pankaj Sharma and another vs. Secretary Staff Selection Commission, Panchkula and others**, by relying upon ratio descendi culled out by Hon'ble the Supreme Court in various judgments. It would be apt to refer the judgment of Hon'ble Supreme Court in **Madan Lal and others versus State of Jammu & Kashmir, 1995(2) S.C.T. 880 (para 10)**, to decide the controversy in hand. It leaves no manner of doubt that the Court cannot sit as a

Court of appeal and try to reassess the relative merits of the concerned candidates, who had been assessed at oral interview nor can the petitioner successfully urge before this Court that he was given less marks, though his performance was better. It is only for the Interview Committee to judge the relative merits of the candidates, who were orally interviewed. Therefore, the assessment of marks made by the expert committee cannot be brought under challenge only on the ground that the assessment was not proper and justified as that would be the function of the appellate body and certainly this Court cannot act as a Court of appeal over the assessment made by such an expert committee.

In the instant case, there is no challenge to the constitution of the selection committee and, therefore, the petitioner is not permitted to even plead qua awarding of lesser or higher marks in the interview. It is always in the domain of the selection committee to assess the intelligence and general knowledge of the respective candidates. The fixing of the criteria by getting 50 marks for academic qualification and 25 marks for the interview has been upheld by the Hon'ble Supreme Court in its judgment in **Anzar Ahmad versus State of Bihar and others, 1994(1) S.C.T. 484** by holding that the viva voce test had been accepted and recognized in judging the suitability of the candidate for appointment on various posts as the method had been universally followed in the selection.

In view of what has been observed above, since the petitioner has not obtained the minimum required marks, therefore, he cannot be considered for selection at this belated stage.

Writ petition stands dismissed, accordingly.

(AMIT RAWAL)
JUDGE

May 21, 2015
savita