

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

**CWP No.11334 of 2015
Date of decision: 28.05.2015**

Jatin Kumar

... 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. Surinder Deswal, Advocate
for the petitioner.

AMIT RAWAL J.

Challenge in the present writ petition is to the impugned selection of private respondents No.7 to 18 on various posts in Karnal Circle relating to Regular Mechanical Establishment (Group-D), Annexure P-12, on the premise that the selection is illegal, void, arbitrary and without any reasoning as the petitioner is entitled for selection to above posts as the criteria of selection is arbitrary and based on the whims and fancies of the Selection Committee.

It would be apt to refer few facts to decide the dispute/lis between the parties.

The petitioner in pursuance to the advertisement dated 03.03.2013, published by Public Health Department, Haryana,

whereby, the selection of various posts i.e. Fetter, Chowkidar, Store Coolie, Patrolman, Keyman etc. was sought to be filled up, applied for the said posts in General Category, vide Annexures P-2 to P-10.

Mr. Surender Deswal, learned counsel appearing on behalf of the petitioner submits that the respondent-department fixed the following criteria for filling up the said posts for conducting interview:-

“Marking Scheme for selection of Group-D posts will be as under:-

i) Marks of academic standard of Middle Pass	15
ii) Additional marks for academic standard matric pass	15
lii) Additional marks for academic standard 10+2	20
iv) Marks for field test	15
v) Marks for personality test	25
vi) Marks for experience (one mark for each year or part thereof)	10
Total	100
Note: No additional marks will be granted for higher qualification if any than stated above.”	

It has further been submitted that the petitioner was called for interview on 12.12.2013 and the result of the selection process after interview was published on 22.6.2014 (Annexure P-13) and the private respondents were appointed on various posts and the private respondents who were having no experience for the post advertised have been given higher marks for field test and personal ability. Accordingly, they have given higher marks whereas, on the contrary, the petitioner is/was having two years experience on the post of Keyman and still working on the contractual basis. He was

given only 07 marks for field test and 12 marks for personal ability test.

It has further been submitted that respondents have not adopted the said criteria for allocation of marks in the selection process, especially for marks which were to be given in academic heads. If the criteria would have been followed, the petitioner would have been at the top of the rank. Though the petitioner has passed 10+2 examination with 71% marks and he is also having experience of two years as Helper, the respondents have adopted the policy of pick and choose which is totally fallacious.

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

No doubt, the petitioner has approached this Court after expiry of one year, inasmuch as result was declared on 22.6.2014, there is no explanation challenging of selection after a gap of one year. Moreover, the petitioner is stated to have participated in the entire selection process and appeared in the interview and the law on this point is no longer *res integra* inasmuch as it is now settled that where a person after noticing the contents of the advertisement, participated in the selection process, much less, appeared in the interview and waited for the selection, in case, there is grievance, the said selection process could have been challenged much earlier.

The petitioner in the instant case waited for the result. Since the result was not in his favour, he chose to challenge the

selection after a gap of one year. The present case does not fall within the realm of judicial review as the petitioner has acquiesced by participating in the process of selection and particularly, no mala fide having been alleged to any member of the Selection Committee, none of the members of the Selection Committee having been arrayed in personal capacity, much less, there being no challenge to the constitution of Committee, the Court cannot sit as an expert and go behind the mind of experts, who had interviewed the candidates and awarded the marks as per their performance. In order to lend support to the aforementioned observations, I intend to rely upon the judgments rendered by Hon'ble Supreme Court in **Madan Lal and others Versus State of Jammu & Kashmir, 1995(2) S.C.T.880 (para 10), Anzar Ahmad Versus State of Bihar and others, 1994 (1) S.C.T.484 and Shashindra Singh (Km.) Versus Union of India and others, 2010(3) RSJ 682.**

It is a matter of record that the petitioner has participated in the selection process and this 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 view of what has been observed above, there is no merit in the writ petition and the same stands dismissed.

(AMIT RAWAL)
JUDGE

May 28, 2015
savita