

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

CWP No. 17838 of 2013 (O&M)
Date of Decision: 24.02.2015

Harkiran Singh

... Petitioner

Versus

State of Punjab & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gurminder Singh, Sr. Advocate, with
Mr. RPS Bara, Advocate,
for the petitioner.

Mr. Inder Pal Goyat, Addl. A.G., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

Insofar as the Punjab Civil Services & Allied Services Examination 2009 is concerned of which the result was declared on 27th April 2012, the petitioner can have no case for a direction to consider him for appointment to one of the advertised posts, from the reserved category of Scheduled Caste (Sportsman), for which one post was earmarked, where this Court has negated such a plea in orders passed in CWP No.10541 of 2012 (**Ram Bhajan Singh Vs. State of Punjab & ors.**), decided on 16th July 2012 (text placed at Annexure R-2) on the ground that Clause 7 of the terms and conditions of the advertisement enables discretion to be exercised by the Commission by lowering the pass percentage, in the eventuality of a sufficient number of candidates not obtaining 45% marks in the aggregate of marks in the main competitive examination. Commission cannot be compelled by mandamus to exercise discretion in a particular manner suited

to a supplicant, to lower the threshold marks for entry to service by relaxation of the qualifying percentage of 45% in the main examination is not tenable, in view of the decision of the co-ordinate Bench in *Ram Bhajan Singh*, I would not accept the plea of Mr. Gurminder Singh, learned Senior counsel appearing for the petitioner that any such direction should go to benefit the petitioner alone.

His next contention also does not deserve acceptance which is based on a subsequent examination, where the Commission exercised its discretion to lower the minimum prescribed percentage required to qualify the main examination paving the way to be called for interview. Since the rights of the petitioner can have reference only to the 2009 PCS recruitment process, the plea of discrimination is not capable of being accepted and the petitioner allowed to be treated similar in fashion to what was doled out in the subsequent PCS recruitment process and therefore, I do not find any palpable or manifest error committed in the impugned order by the Commission declining the request of the petitioner to be called for interview, for the simple reason that he has secured 44.44% marks in the main examination, which is below the 45% prescribed. If he missed the target closely it was as good as a mile.

The third contention of Mr. Gurminder Singh is that the post of SC(Sports) category was offered to one Brahmneet Kaur, but she did not accept the offer and the post remains vacant and therefore, the petitioner's case could be considered against that available post.

If this argument is accepted, it would tantamount to a direction to the Commission to relax the terms and conditions of the recruitment rules, when none is available nor was granted by the Commission for the

recruitment process 2009, the vacant post has to be thrown open in a subsequent selection process.

For the aforesaid reasons, I find no cogent reasons to interfere in this matter and would dismiss the petition even though the post may be vacant. It will be open to the State to deal with the unfilled post as it chooses to, in accordance with law.

24.02.2015
monika

(RAJIV NARAIN RAINA)
JUDGE