

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

**C.W.P No. 11173 of 1995
Date of decision : 16.03.2016**

Dev Raj Arya & ors.

...Petitioners

versus

Subordinate Services Selection Board & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioners.

Mr. Hitesh Pandit, Addl.A.G. Haryana

RITU BAHRI , J. (Oral)

By way of present writ petition, petitioner is seeking quashing of selection and appointment made by the respondents against 29 posts of P.T.I's (Male) vide Annexure P-1.

On notice, a written statement has been filed by respondent No. 1 stating therein that in the advertisement it has been clearly mentioned that the posts are likely to variation to any extent as the select panel is for a period of one year. Petitioners were considered against all the advertised posts but they could not be appointed in the panel of 179 candidates. Petitioners have challenged the selection of P.T.I (Male) and P.T.I (Female) without impleading the selected candidates.

In the written statement filed by respondent Nos. 2 and 3 it has been clearly stated that respondent No. 1 sent the names of selected candidates to the concerned Distt. Education Officers to offer the appointment only within advertised posts.

The precise grievance of the petitioners is that more than 140 candidates were interviewed in a single day. Further the Board has sent a list of 119 candidates to the respondent-department after selecting them without complying with the appropriate method in interview.

The writ petition is liable to be dismissed as the petitioners had participated in the selection process and were awarded marks as per the criteria laid down by the Selection Committee. The petitioners cannot challenge the selection process only on the sole ground that they were given lower marks in the interview as it is upon the Selection Committee to judge each and every candidate. If the petitioners had secured higher marks in the written test, it does not entitle them to be selected for the post.

Reference at this stage can be made to a judgment passed by this Court in a case of ***Naveen v. Gurgaon Gramin Bank and others, 2011(2) SCT 311*** wherein also selection criteria challenged and this Court dismissed the petition and held as under:-

8. *The petitioner having participated in the process is*

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*estopped from challenging the selection criteria at this belated stage. Apart from the above, there is no thumb rule for fixing the marks for the interview. In the present case the petitioner has now made any allegations against any of the members of the selection body that the marks in the interview have been manipulated to suit the private respondent. In absence of their being any allegation of malafide or bias such a plea is not sustainable in law. In so far the question of giving preference to a candidate is concerned, it is claimed that the petitioner has Diploma in Management to his credit and thus he was required to be given preference in terms of Clause-B of the eligibility criteria laid down by the respondents. The rule of preference has been finalized by the Hon'ble Supreme Court in case of **Secy. (Health) Deptt. Of Health & F.W and another Vs. Dr. Anita Puri and others reported as (1996) 6 SCC 282**, wherein following observations have been made:-*

“ 7. Admittedly, in the advertisement which was published calling for applications from the candidates for the posts of Dental Officer it was clearly stipulated that the minimum qualification for the post is B.D.S. It was also stipulated that

preference should be given for higher dental qualification. There is also no dispute that M.D.S. is a higher qualification than the minimum qualification required for the post and Respondent no.1 was having that degree. The question then arises is whether a person holding a M.D.S qualification is entitled to be selected and appointed as of right by virtue of the aforesaid advertisement conferring preference for higher qualification? The answer to the aforesaid question must be in the negative. When an advertisement stipulates a particular qualification as the minimum qualification for the post and further stipulates that preference should be given for higher qualification, the only meaning it conveys is that some additional weightage has to be given to the higher qualified candidates. But by no stretch of imagination it can be construed to mean that a higher qualified person automatically is entitled to be selected and appointed.”

Moreover, in the present case, the validity of the panel was for one year and the present petition was admitted on 26.03.1996 and no stay was granted.

Petitioners have not filed any replication to the written statement filed by the respondents.

Further, learned State counsel submits that appointments shall be made only to the extent of posts advertised.

In view of the above, no ground is made to quash the selection process.

The writ petition is dismissed being devoid of any merit.

(RITU BAHRI)
JUDGE

16.03.2016

G Arora