

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

CWP No.17384 of 1998(O&M)

Date of decision: 28.5.2016

Pran Nath Store Attendent & ors.

... Petitioners

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Jatin Salwan, Advocate,
for the petitioners.

Mr. Harkesh Manuja, 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)

1. The first type test drew a blank on an anonymous complaint made that all was not well in conducting it, which complaint was verified and it was found that though the candidates had passed but the mistakes as marked on the papers of such candidates were more than the mistakes pointed out. As a result, the department did not declare the fudged result rendering it without bearing any fruit. However, close at heels, another type test was held on November 30, 1998. But by that time the petitioners had approached the Court in the present petition and chose not to appear in that test. In this, they took their chances pinning their hopes on the present litigation.

2. When the charge is that the type test was neither fair nor accurate, sufficient to vitiate the examination/selection, then the burden is light; [See, D.V. Bakshi v. Union of India, (1993) 3 SCC 663, at page 674 Supreme Court observing: "That is why we have said that a heavy

responsibility lies on those examining the candidates at the interview to ensure that proper record is maintained so that there is no room for suspicion in the minds of the unsuccessful candidates that the result of the oral test is tainted with bias for or against any candidate because even light proof in support of the charge may upset the result of the oral test as a whole or qua a candidate, as the case may be. In the present case, however, the allegation is of a general nature and is not supported by even light proof to infer, even prima facie, that the result of the oral test was tainted because of bias.”].

3. It is not the case that a part of the selection was bad when the entire result was clouded by errors without naming anyone in particular. A reading of the English translation of Punjabi version of Annex II/T produced by the respondents in its written statement would suggest the corrective method would have required consulting subject experts. In these suspicious circumstances, the Additional Director (IT) in an internal communication made on the file dated September 7, 1998 recording the conscious decision of the Committee set up for the purpose recommending cancellation of the type test result and to hold the test again by giving one month's time to all the candidates.

4. Ordinarily, a mandamus would not issue to the State to appoint a candidate on a suspicious selection result which has been cancelled due to apparent errors. Judicial scrutiny is limited to the reason which led to the cancellation and if that is proper exercise of authority then interference is not warranted. The written statement filed by the department discloses the process of reasoning which led to cancellation and the same is placed at Annex II/T to which there is no effective

rebuttal. When the entire selection is rendered bad due to suspicious results, then the selection gets vitiated and there is hardly scope to separate the wheat from the chaff or introduce principles of natural justice or individual notices to candidates when cancellation is result of irregularities and illegalities committed in conducting the selection; (See, Union of India & Ors v. O. Chakradhar, (2002) 3 SCC 146). If the petitioners did not avail opportunity to sit in the subsequent type test they took their chances at great peril to their future careers which was in their own hands. A writ would not issue to perpetuate illegalities. Therefore, I find no valid or cogent ground to interfere in this matter to direct the respondents to promote the petitioners from their quota of 10% to ministerial cadre on the basis of the type test validly cancelled in the year 1998 and consequently the petition fails and is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

28.5.2016
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