

CWP No.15510 of 2004 (O&M);
CWP No.26487 of 2013 (O&M);
CWP No.18860 of 2014 (O&M); &
CWP No.19960 of 2015 (O&M)

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

Date of decision: 19.08.2016

CWP No.15510 of 2004 (O&M)

M.P.Sharma

...Petitioner

Vs.

State of Haryana & others

...Respondents

CWP No.26487 of 2013 (O&M)

Sushil Kumar

...Petitioner

Vs.

State of Haryana & others

...Respondents

CWP No.18860 of 2014 (O&M)

Devi Ram Dhiman

...Petitioner

Vs.

State of Haryana & others

...Respondents

CWP No.19960 of 2015 (O&M)

Ajmer Singh

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. A.P.Bhandari, Advocate, for the petitioner
in CWP No.15510 of 2004.

Mr. I.D.Singla, Advocate, for the petitioner
in CWP No.26487 of 2013.

Mr. Rajesh Bansal, Advocate, for the petitioner
in CWP No.18860 of 2014.

Mr. S.S.Dinarpur, Advocate, for the petitioner
in CWP No.19960 of 2015.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. H.N.Mehtani, Advocate, for HPSC.

Mr. R.S.Narang, Advocate, for respondent No.2.

Mr. Ashish Grewal, Advocate, for
Mr. Pravindra Chouhan, Advocate, for respondent No.3.

Mr. S.K.Bawa, Advocate, for
Mr. J.S.Dhaliwal, Advocate, for respondent No.6
in CWP No.15510 of 2004.

Mr. Anurag Goyal, Advocate,
for respondents No.8 & 9 in CWP No.15510 of 2004; &
for respondents No.5 & 6 in CWP No.18860 of 2014.

Mr. Sajjan Singh, Advocate, for respondent No.7
in CWP No.15510 of 2004.

Mr. Atul Gaur, Advocate, for
Mr. Amandeep Singh, Advocate, for the respondent.

RAJIV NARAIN RAINA, J.

This order disposes of the aforementioned four petitions, as the issue in dispute relates to the recruitment process – 2004 to the Haryana Civil Services (Executive Branch) from Registers A-I & A-II by way of nomination against vacancies of the year 2003 and they can conveniently be decided by a common order since they involve the same subject matter.

The case has a history, which is briefly noticed. The petitioners approached this Court in CWP No.14129 of 2004 along with other petitioners challenging the selection of the candidates to the HCS (Executive Branch) through the nomination process. The petition was disposed of by a short order dated 01.09.2005, which is reproduced below:

“This order shall dispose of Civil Writ Petition Nos.14129, 14519, 15529, 15510, 15638 of 2004 and Civil Writ Petition No.1624 of 2005.

The learned Advocate General, Haryana has appeared in these matters. He supports the plea of the petitioners that on account of the alleged bungling in the selection, the matters should be referred for independent investigation to the Central Bureau of Investigation. The suggestion is hotly disputed by Mr. H.N.Mehtani, Advocate, appearing for the Haryana Public Service Commission as also by Mr. P.S.Patwalia, the learned Senior Counsel appearing for the selected candidates, contending that there was no material on record to justify such an investigation. We have carefully gone through the record and find that on account of the serious allegations made in the writ petition, some inquiry must be made.

We accordingly issue directions to the Central Bureau of Investigation to look into the entire process of selection and for this purpose, the necessary records be provided to the Central Bureau of Investigation as and when called upon to do so. The report be submitted to the Government within eight months for necessary action.

The writ petitions are disposed of accordingly. Dasti.”

The Haryana Public Service Commission filed SLP (Civil) Nos.22721, 22748, 22764, 22774, 23047, 23421 of 2005, 6281 of 2006 and 32515 of 2010 before the Supreme Court of India. The SLPs were disposed of vide order dated 08.10.2013, text of which is reproduced below:

“A copy of the status report submitted by the CBI may be made available to the parties concerned, if not already given.

Application for impleadment is dismissed.

Learned counsel appearing for the Haryana Public Service Commission seeks permission to withdraw these special leave petitions, in view of the status report filed by the CBI.

The special leave petitions are, accordingly, dismissed as withdrawn.

Needless to say, it is open to the Government to take appropriate steps, in accordance with law.

Delay condoned.

We notice that the High Court has not disposed of the writ petition on merits. Now, the CBI has already submitted the report and if the original writ petitioners are aggrieved, they can still approach the High Court to ventilate their grievances.

Considering the fact that the matters are relating to selection of the year 2004, if the High Court is approached, the High Court will dispose of the matters expeditiously, in accordance with law.

The special leave petitions are disposed of, as above.”

When the report of the CBI was received, the Haryana Public Service Commission sought permission of the Supreme Court to withdraw the SLPs and accordingly they were dismissed as withdrawn, but with the direction as aforesaid. This is how, the matter came up for hearing before this Bench.

Mr. A.K.Singh, IAS, Secretary to Government of Haryana, Personnel Department, has filed an affidavit dated 25.05.2015 in which action taken on Para 11.2 of the CBI report submitted to the Supreme Court has been narrated. Notice of termination of service or reversion to parent departments of five candidates namely Virender Singh, Devi Lal Sihag, Suresh Kumar Chahal, Prithvi Singh and Naveen Kumar Ahuja appointed to HCS (Executive Branch) from Register A-II and two candidates namely Sant Lal Pachar and Anurag Dhalia appointed to HCS (Executive Branch) from Register A-I have been issued and steps initiated to either terminate their services or revert them to their previous service in Government following the indictment of the selection process by the CBI as vitiated by wrongdoing. One candidate, namely, Sarwan Kumar appointed to HCS (Executive Branch) has already been terminated from HCS (Executive Branch) for submitting a fake B.A. degree to secure appointment. His parent Department i.e. Haryana State Agriculture Marketing Board on reversion has also terminated his services on 23.08.2005. Another candidate, namely, Mange Ram Dhull appointed to HCS (Executive Branch) from Register A-I already stands superannuated on 31.12.2012 and therefore no action can be taken. Regarding recommendations in Para.11.3 of the CBI report, the affidavit explains that it has been brought to the notice of the Court that the State Government had sent repeated requests and reminders vide letters dated 02.11.2012, 12.02.2013, 07.04.2014, 04.07.2014 and DO letter dated 20.03.2015 written to the CBI, Chandigarh for returning all the relevant record in its custody but were not responded to for a long time. The affidavit deposes that the relevant record from CBI has been received back on 17.04.2015 and a regular departmental inquiry for major penalty has been initiated against Shri S.N.Roy (IAS) and Shri Srinivas, Inspector which is

being dealt with on the basis of the record and the report of CBI and the matter has been submitted to the competent authority for decision/directions. Similarly, as against recommendations in Para.11.4 of the CBI report, action has been initiated on the basis of record and the CBI report and the matter has been submitted to the competent authority for decision/direction. Notices of termination and or of reversion have been appended as Annex R-1 to R-7.

The written statement to the amended petition submitted by the Haryana Public Service Commission is inconsequential as it still defends its selection as free and fair and not touched by extraneous considerations and the selection has been on merit.

The CBI report is in public domain and well known to the parties and the authorities upon which they have relied and the fact that Government has initiated action on the report and the private respondents are either under notice of termination or reversion other than those, who have already been terminated or have retired, the purpose for which this petition was filed has been achieved. The petitioners have challenged the selection in these petitions, which is on its way to nullification. Therefore, no useful purpose will be served in keeping this bunch of petitions pending any longer and the petitioners can take no more relief than what has resulted as a fall out of this Court ordering CBI inquiry into the selection. Even if the entire selection process is vitiated by corruption etc., even then the petitioners cannot get the relief of appointment to HCS (Executive Branch) from the respective Registers. These defunct vacancies would have to go to the next pool of recruitment from the registers concerned. If the petitioners have any grievance remaining as a result of the final decisions taken by the Government and in the pipeline they have hardly any actionable claim to

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real relief, and they are at liberty to move this Court again in this petition, if the need arises and situation demands.

Consequently, these petitions stand disposed of.

Needless to say, the Government would take appropriate steps and promptly to pass final orders in accordance with law in the on-going processes.

[RAJIV NARAIN RAINA]
JUDGE

19.08.2016

Vimal

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*