

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

**CWP No.17807 of 2010
Date of Decision:- 28.04.2016**

Hoshiyar Singh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Kanwaljit Singh, Senior Advocate,
with Mr. Ajai Vir Singh, Advocate
for the petitioner.**

Mr. Keshav Gupta, Assistant Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioner by way of present petition is seeking quashing of impugned selection and appointment of the less meritorious candidates, who have been selected and appointed by the respondents as Constables in the Police Department in District Panipat by awarding them higher/more marks in viva voce in view of advertisement (Annexure P-1) and further to select him and appoint as Constable being more suitable.

Pursuant to advertisement dated 05.10.2007 (Annexure P-1), the petitioner participated in the selection process for filling up the 1940 posts of Constables Male (General Duty) in the Police Department Haryana. On 14.03.2008, as per the test scheduled appeared for physical

standard and physical efficiency test, the petitioner secured 20 marks out of 20. The petitioner is graduate passed as per certificate (Annexure P-2) and was awarded three additional marks in the interview having N.C.C. 'C' Certificate (Annexure P-3). The petitioner as per information under the RTI Act has got 3 marks in the interview, out of 15 marks and secured total 26 marks, out of 35 marks and the last selected candidate secured 29 marks, out of 35 marks. The petitioner has placed on record the information under RTI dated 24.08.2009 (Annexure P-6) showing the details of marks granted to the selected candidates.

Mr. Kanwaljit Singh, learned Senior counsel has argued that a perusal of the list of candidates (Annexure P-6) shows that the candidates who had done 10+2 have been awarded higher marks in the interview whereas the petitioner who was a graduate and had got full marks in the physical test has been awarded only three marks out of 15 marks in interview. He has referred to a judgment of this Court in case **LPA No.2081 of 2011** titled **Babita Rani Vs. Punjabi University, Patiala and others**, decided on 14.11.2011 and a judgment in case **CWP No.16659 of 2011** titled **Jaskaran Singh Vs. Punjabi University, Patiala and another**, decided on 15.05.2015 and to contend that the Commission had not adopted any criteria for assessing the respective merits of candidates for awarding marks in interview.

The judgment in **Babita Rani' case (supra)** would not be applicable to the facts of the present case. In that case the selection was to the post of Lecturers in Physics. The selection was solely on the basis of interview. There was no provision of grading of the candidates. The

selection was to be made only on the performance made by the candidates before the Selection Committee. However, there was no parameters to assess the suitability of a candidate on account of nature of qualifications possesses, work experience, research, publications, participation in conference, workshops, seminars etc. In the absence of relevant parameters, the selection was quashed by learned Single Judge and the appeal against the judgment of Single Judge was dismissed by holding that such a process of selection would not inspire any confidence and thus not sustainable.

In Jaskaran Singh's case (supra) the applications were invited for one post of the Assistant Professor/Lecturer in Physical Education. The petitioner in that case had secured 73.81% marks on the basis of academic and other qualifications at the time of short-listing. The selection was made only on the basis of interview. There was no grading and criteria laid in assessing the performance of a candidate. In the absence of any criteria to assess the personality test of a candidate, the selection was quashed.

The Supreme Court in the case of Jyotish Kaiborta and others Vs. State of Assam and others, (2009) 4 Supreme Court cases 516 was examining the selection for the post of Lower Division Assistants in the Transport Department and in that case after conducting the written test, the interview was held and select list was prepared. In paragraph 18, the Supreme Court, has held as under: -

“We are unable to appreciate or even follow the reason assigned by the High Court for condemning the select list. In case, in viva voce very high marks were given to candidates who secured low or very low marks in the written test that might be a ground for suspicion. But if the candidates securing high marks in the written test were able to secure equally high marks

in viva voce we are unable to find any anomaly. After all there has to be some difference between the selected and the unselected candidates.”

In **Madan Lal and others Vs. State of J&K and others**, (1995) 3 Supreme Court Cases 486, the Supreme Court was examining the selection process of filling up the posts of Munsif in the State of Jammu & Kashmir. There was a written test and after qualifying the same they were called for interview. As per the relevant rules, the object of viva voce examination was to assess the candidates' intelligence, general knowledge, personality, aptitude and suitability and there was no separate assessment of marks for candidates for viva voce faculty-wise. The Commission was required to keep in view the main object of assessing such candidates in the light of the guidelines given therein. The overall performance of the candidates at the oral interview was to be assessed and these were the general guidelines given to the Interviewing Committee members. The particulars furnished by the candidates in the applications pursuant to advertisement were placed before the members of the Interview Board. The result of the candidates in the written examination was not placed before the members of the Interview Board. The result of the interview placed on merits cannot be challenged by a candidate, who takes a chance to get selected by participating in the said interview and ultimately he finds himself to be unsuccessful. The assessment on merits has made by such an expert of Interview Committee cannot be quashed and challenged only on the ground that the assessment was not proper or justified as that would be the function of the appellate body and the Courts are not acting as Court of appeal over the assessment made by such an expert Committee. The selection on the post of Munsif was upheld by the Supreme Court.

After hearing the learned counsel for the parties, going through the record and perusing the above-said judgments, this Court is of the considered view that the selection is to the post of constable and there is a provision for participating in the physical efficiency test, which is of 20 marks and 15 marks kept for interview and eligible NCC cadets having 'A' 'B' 'C' and 'D' certificates have to be given weightage of '1', '2' and '3' marks. The grading of the candidates has been duly clarified in the advertisement (Annexure P-1). Further, it is not the case where no criteria have been laid down for grading the performance of a constable. The petitioner has participated in the physical efficiency test and has been awarded marks for the NCC 'C' certificate and for the purpose of interview there was no requirement to frame a separate criteria on the basis of education qualifications. Further, in the list (Annexure P-6) a number of selected candidates had got 20 marks in the physical efficiency test and at the same time they have been awarded high marks in the interview. The petitioner cannot have a grouse that after getting 20 marks in the physical efficiency test, he has been awarded three marks in an arbitrary manner. Mere suspicion thus would not be a ground to quash the entire selection process. Accordingly, the present writ petition has no merit and the same is hereby dismissed as such.

April 28, 2016
naresh.k

(**RITU BAHRI**)
JUDGE