

In the High Court of Punjab and Haryana at Chandigarh

CWP-12251-2015

Date of decision: February 04, 2016

Parvesh Saini and others

.....Petitioners

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Ranjit S.Dhiman, Advocate
for the petitioners.
Mr.V.K.Kaushal, Advocate for respondent No.1
Mr.Paul S.Saini, Advocate for respondents No. 2 and 3

SABINA, J

Petitioners have filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing notice dated 2.2.2015 (Annexure P4) and the advertisement dated 9.3.2015 (Annexure P13). Petitioners have further prayed a writ in the nature of mandamus be issued directing respondent No.3 to issue appointment letters to the petitioners on the basis of written test as well as typing test qualified by them in pursuance to the advertisement dated 3.3.2014 (Annexure P1).

Case of the petitioners, in brief, is that respondent No.3 had issued advertisement Annexure P1 for appointment of Warehouse Assistant Grade II. Petitioners applied for the said post

and were issued roll numbers and they appeared in the written test on 31.8.2014. As per the result declared by respondent No.3 qua written test, petitioner No.1 was at serial No.1 in the merit list, whereas, petitioner No.2 was shown at serial No. 3 and petitioner No.3 was shown at serial No.22. Petitioners appeared in the typing test on 22.11.2014. Petitioners successfully qualified the typing test but were not issued the appointment letters. However vide notice dated 2.2.2015 (Annexure P4), respondent No.3 scrapped the written/typing test. Although, the reasons given by respondent No.3 was that the written test and type test were being scrapped on account of administrative reasons but the same had been scrapped because kith and kin of employees of the respondents conducting the test could not successfully clear the written/type test. The other regional offices had declared the result and issued appointment letters to the successful candidates for the post of Warehouse Assistant Grade II. Respondent No.3 had again advertised the same post on the same conditions on 9.3.2015 vide Annexure P13.

Learned counsel for the petitioners has submitted that the posts of Warehouse Assistant Grade II were advertised by respondent No.3 vide Annexure P1. Petitioners had qualified the written test as well as typing test. However, respondent No.3 scrapped the written/typing test as the kith and kin of the employees of the respondents had failed to clear the written and typing test. Thereafter, fresh advertisement Annexure P13 was issued without any change than the earlier advertisement Annexure P1. Hence, the advertisement Annexure P13 was liable to be quashed.

Learned counsel for the respondents, on the other hand, has submitted that the written test/type test were quashed vide Annexure P4 dated 2.2.2015 as there were certain irregularities detected in the recruitment process and due to this reason, fresh advertisement was issued. Petitioners had not submitted their applications in terms of the advertisement Annexure P13. Eleven relations of the official of the Corporation had appeared in the first recruitment process but they could not qualify the written test/typing test. The said eleven persons had failed to qualify in the second recruitment process also.

In the present case, admittedly, advertisement Annexure P1 dated 3.3.2014 was issued for filling up for the post of Warehouse Assistant Grade II by the respondents. Petitioners appeared in the written test/typing test. Vide Annexure P4 dated 2.2.2015, the written/typing test held for recruitment to the post of Warehouse Assistant Grade II on 31.8.2014/22.11.2014 were scrapped due to administrative reasons. It was further ordered that fresh applications for recruitment would be invited shortly. Thereafter, vide Annexure P13 dated 9.3.2015, applications were again invited for the post of Warehouse Assistant Grade II by the respondents. The advertisement provided that the candidates who had appeared for written test/type test, in response to advertisement Annexure P1, shall have to apply again as a fresh candidate.

On 22.10.2015, following order was passed by this Court:-

“During the course of arguments, it transpires that

details of the officials of the Corporation whose blood/close

relations are alleged to have appeared in the written/typing test, are not forthcoming and neither are the particulars of the said candidates related to them available.

Mr. Saini, learned counsel for respondents No.2 and 3 is unable to give any details in this respect. There is no information whether the alleged wards/relations etc. of the said officials had cleared the written test or the typing test. He prays for some time to file a specific affidavit in this respect giving complete details of the said officials, their relations etc. as well as other irregularities referred to.

Learned counsel for the petitioners points out that written test in pursuance to subsequent advertisement dated 09.03.2015 (Annexure P-13) is to be held on 25th October, 2015. Petitioners had cleared the written examination as indicated in Annexure P-3 and were duly called for the typing test. No final merit list had been prepared. They be permitted to take the said exam without prejudice to their rights in the present writ petition. Petitioners undertake to submit fresh applications complete in all respects within two days.

In the peculiar facts and circumstances of the case, it is considered expedient to permit the petitioners to take the exam to be held on 25th October, 2015 subject to their submitting necessary documents, complete in all respects, by 10:30 am on 23rd October, 2015. Relaxation in

age would be afforded to petitioner No.1 who was admittedly within the age limit at the time of issuance of first advertisement on 3rd March, 2014 (Annexure P-1).

No right whatsoever shall, however, vest with the petitioners by virtue of this interim order.

List on 28.11.2015.

Copy of this order be given Dasti under the signatures of Bench Secretary."

Petitioners, however, failed to appear for the written test as permitted by this Court vide order dated 20.10.2015. Respondents have placed on record affidavit of the Regional Manager dated 15.12.2015 in pursuance to the order passed by this Court dated 20.10.2015. A perusal of the said affidavit reveals that, on the basis of the performance of the candidates in the written test as well as typing test in pursuance to the advertisement Annexure P1, 41 candidates were shortlisted for preparing the final merit/selection list. At that stage, the Regional Manager apprehended some doubts in the manner in which recruitment process had been conducted.

Paras 4, 6 and 7 of the said affidavit reads as under:-

"4. That apart from the aforesaid irregularity, another serious irregularity which was observed in conducting the aforesaid written examination was that only one question paper was prepared by the Committee, which is wholly against the principles of fair and transparent selection process. It was further observed that there was no record pertaining to the allotment of answer-sheets of

written test of the candidates for evaluation. In the absence of such record, no responsibility can be fixed upon any official for any irregularity in the evaluation of answer-sheets. It was also observed that the signatures of the evaluators were also not appended on the answer-sheets.

6. That subsequently the competent authority of the Corporation constituted a committee comprising of SIO(E) (Storage Inspecting Officer (Establishment)) and Supdt. (Estt.) for submitting a report after re-checking/re-evaluating of answer-sheets of only 41 shortlisted candidates. The aforesaid committee after thorough examination of the matter and re-checking/re-evaluating of answer-sheets of 41 shortlisted candidates submitted its report dated 01.12.2015, pointing out the irregularities in evaluating the answer-sheets, which is reproduced hereunder for facility of ready reference:-

“As per the direction/orders of the Regional Manager Smt. Chanchal, SIO(E), and Smt. Usha Kumari, Supdt. (E), of Regional Office, Chandigarh rechecked the 41 Answer Sheets of the selected candidates General/SC/OBC/PH appeared for the written test held on 31.08.2014 for the recruitment to the post of WA-II under Chandigarh Region.

The following observations/discrepancies/ irregularities have been noticed:-

1. On Scrutiny of the Answer sheets it has been found that the signature(s) of the evaluators have not been appended on the answer sheets.

2. Roll No.204 Jasvinder Kumar, S/o Sh. Maan Chand (physical handicapped) has mentioned his name in the

question No. 153 in violation of terms and conditions mentioned in the question paper and evaluator has given marks.

3. Roll No. 2950 Miss Sonia Yadav (Sheet No.3021) has also mentioned her name in the question No. 153. in violation of terms and conditions mentioned in the question paper and evaluator has given marks.

4. Roll No. 1415. Sh. Sandeep Kumar, was given half marks on overwriting in question No.124.

5. Roll No.3455, Sh. Sumit Kumar, has also mentioned his name in question No. 153. His question No. 89 was attempted on wrong column and given half marks whereas the answer is wrong.

6. Roll No.3367 Sh. Harinder Singh, has also mentioned his name in the question No. 153. in violation of terms and conditions mentioned in the question paper and evaluator has given marks.

7. Roll No.1668. Sh. Vijay Kumar, was given half marks for question No. 113 whereas the answer is wrong.

8. Roll No. 65 Sh. Gaurav Deegia(Sheet No. 0065) his question No.2 is correct but no marks has been given. Question No. 14 is incorrect but half marks is given. Question No. 121 & 150 is wrong but half marks is given for both the questions.

9. Roll No. 748, Sh. Dinesh Kumar, whose question No.114 is correct but no marks has been given.

10. Roll No. 2151, Sh. Manish Singh, question No.48, 49, 50 & 64 are correct answers but no marks has been given and has been declare wrong and there is also totaling mistake.
11. Roll No.1083, Sh. Pankaj, whose question No. 22 was corrected by ticking two answers and marks has been given.
12. Roll No.961, Sh. Sahil Bhgania, there is totaling mistake total comes to 63.5 instead of 62.5.
13. Roll No.0899 Sh. Suresh Kumar, whose question No. 145 is correct but no marks has been given.
14. Roll No. 805 Sh. Kirandeep Tamna (Sheet No.0805) there is overwriting in question No.30 but marks has been given. Question No. 103, 104, 111, 112, 113 are correct but no marks has been given.
15. Roll No.1228, Sh. Amit Mishra, whose question No.54,55 are correct but no marks has been given whereas question No.130 is incorrect but marks have been given.
16. Roll No.3093, Sh. Sumit Sethi, there is totaling mistake. Question No.16 is incorrect but marks has been given similarly question No.135,144 are correct but no marks has been given.
17. Roll No. 2365 Sh. Mohit Sharma, used white fluid in question No.56,67,90 & 120. and examiner has given marks to him.

18. Roll No.0043 Sh. Rahul Dutta, whose question No.54, 55 & 116 are correct but no marks has been given. He has also mentioned his name in question No.153 in violation of terms and conditions mentioned in the question paper and evaluator has given marks.

19. Roll No. 0122 Km. Sandeep Kaur, whose question No.22 is correct but no marks has been given.

20. Roll No. 3414, Sh. Mukesh Rawat, has given his address in the application i.e. Question No. 153. House No. and Sector are the same as in application but the place is mentioned Sonapat instead of Chandigarh.

21. Roll No. 2608, Miss Babli Rani question No.90,91 are incorrect whereas marks has been given. Question no. 92, 145 is correct but no marks has been given.

22. Roll No. 3032 Miss Sangeeta (sheet No. 3103) evaluation of question no. 153 indiscriminate in many of the cases i.e. in this case the examiner has given only 3 marks for her application, whereas application is in order on the other hand in the case of Roll No. 1228 examiner has give 7 marks out of 10 for question No. 153 whereas the application is shorter in all respect, similarly question No.65 is correct but no marks has been given.

23. Roll No. 1141 Sh. Rajat Saini question No. 19 tick marked double and was given ½ marks. Question No.

144 is correct answer but no marks has been given.

24. Roll No. 1297 Shri Harmanpreet Singh has declared his identity in Q. No. 153 in violation of terms and conditions of the question paper and evaluator has given marks.

In view of the position explained above it will change the order of merit for the selection of candidates for the post of WA-II.

Sd/-
(Usha Kumar)
SUPERINTENDENT(E)

Sd/-
(Chanchal)
SIO(Estt.)”

A perusal of the aforesaid report clearly shows that no examiner/official signed after the evaluation of answer-sheets. It was also observed that no re-checking was done after the evaluation by one examiner. It was further observed that many candidates disclosed their identity in the answer-sheets under answer to question No.153, whereas, disclosing the identity of the candidate in the answer-sheet was strictly prohibited. It was also observed that some of the candidates used same language and wordings in the answer against question No.152 of paragraph writing, which also created a doubt of copying in the examination.”

7. “That on the same lines an another committee was constituted by the competent authority comprising of PS (Private Secretary) and Sr. PA (Sr.

Personal Assistant) for re-evaluation of answer-sheets of computer typing test of 41 shortlisted candidates. The aforesaid committee after re-checking/re-evaluating of answer-sheets of computer typing test of 41 shortlisted candidates submitted its report dated 02.12.2015, pointing out that out of 41 answer-sheets, only 15 had qualified in the typing test. For facility of ready reference, aforesaid report is reproduced hereunder:-

“As per the directions/orders of the Regional Manager, Sh. M.P.Jain, PS and Sh. M.K.Gupta SPA of Regional Office, Chandigarh re-checked the 41 answer sheets of computer typing test of the selected candidates General/SC/OBC/PH candidates appeared for the computer typing test held on 22.11.2014 (as per norms of CWC vide letter No.CWC/XV-4/Rectt. dated 16.04.1986).

The details of the same are as under:-

S. No.	Name S/Sh/Km	Roll No.	Typing Speed calculated by ITI(w.p.m.)	Typing Speed re-calculated by CWC(w.p.m.)
1	Mohit Sharma	2365	35.0	30.5
2	Amit Mishra	1228	35.0	30.5
3	Rahul Dutta	0043	35.0	29.3
4	Sandeep Kaur	0122	30.0	27.5
5	Sumit Sethi	3093	35.0	27.5
6	Kirandeep Tamna	0805	30.3	24.4
7	Amrit Pal Pathak	1449	31.0	23.3
8	Ashish Sharma	2536	30.1	17.2
9	Manish Singh	2151	42.0	38.7
10	Babli Rani	2608	37.4	34.1
11	Sonia Yadav	2950	35.4	31.8
12	Damandeep Singh Tiwana	2935	31.0	29.6
13	Jasbir	3251	57.0	39.9

<i>S. No.</i>	<i>Name S/Sh/Km</i>	<i>Roll No.</i>	<i>Typing Speed calculated by ITI(w.p.m.)</i>	<i>Typing Speed re-calculated by CWC(w.p.m.)</i>
14	Mukesh Rawat	3414	40.0	39.6
15	Sangeeta	3032	36.0	36.9
16	Jai Prakash	2495	30.4	22.8
17	Balram	2424	32.0	13.1
18	Sandeep Kumar	1415	49.0	47.3
19	Gaurav Deegia	0065	39.3	28.9
20	Harinder Singh	3367	30.0	26.0
21	Jatinder Pal	2185	35.0	22.0
22	Suresh Kumar	0899	32.0	21.1
23	Baljit Singh	2363	31.0	24.4
24	Dinesh Kumar	0748	32.0	27.0
25	Vijay Kumar	1668	31.0	26.9
26	Sumit Kumar	3455	30.0	17.7
27	Sandeep Kumar	1923	51.0	48.0
28	Sahil Bhagania	0961	47.0	39.0
29	Vikas Maharoliya	0533	39.0	33.9
30	Pankaj	1083	35.0	31.5
31	Vinay Kumar	0858	35.0	31.1
32	Amandeep Singh	0420	31.0	27.7
33	Jasvinder Kumar	0204	31.0	27.4
34	Vivek Kumar Kansal	2878	31.0	25.0
35	Ankita	2846	30.0	24.4
36	Manoj	1035	30.0	23.6
37	Navpreet Kaur	1065	37.0	20.6
38	Vijay Kumar	0476	33.0	10.4
39	Vipan Kumar	3603	48.0	47.0
40	Harmanpreet Singh	1297	30.0	02.5
41	Rajat Saini	1141	32.0	27.9

In view of the position explained above, it will change the order of merit for the selection of candidates for the post of WAG-II.

*Sd/-
(M.K. Gupta)
SPA*

*Sd/-
(M.P. Jain)
PS”*

It is respectfully submitted that a perusal of the aforesaid report clearly shows that there were serious irregularities

committed by the checking staff/officials which would substantially change the status of the candidates in the final/selection list. It is pertinent to mention that there was correction/overwriting, tempering of marks and improper/incorrect evaluation of answer-sheets etc. by the examiners.

Thus, the case of the respondents is that in view of the irregularities detected in the recruitment process, written test/type test held in pursuance to the advertisement Annexure P1 were scrapped. It is further the case of the respondents that the petitioners had not qualified the type test. In this regard, para 8 of the affidavit reads as under:-

“That it is further specifically and categorically submitted that petitioner No.1 did not qualify in the typing test at all as he failed in the same and as such his name did not figure in the list of 41 shortlisted candidates referred to hereinabove. Regarding, petitioner No.2 whose name was there in the list of 41 shortlisted candidates, though was declared pass in typing test by ITI, Chandigarh, however, on re-checking/re-evaluating of answer-sheet of computer typing test of the petitioner, he is found to be ‘not qualified’ which is evident from the aforesaid report dated 02.12.2015. It is pertinent to mention that, initially, petitioner No.2 was shown as ‘*not eligible*’ and then shown as ‘*qualified*’ by the examiner by overwriting and tempering, whereas, he should have been considered as ‘not qualified’ by the examiner on the basis of

his initial evaluation. Therefore, petitioner No.2 cannot claim that he had passed the typing test. Same is the position with respect to petitioner No.3. However, the aforesaid result of the petitioners in the typing test as explained hereinabove is wholly inconsequential and immaterial in the backdrop of scrapping of the entire recruitment process.”

In para 3 of the affidavit, the list of the relations of the officials of the Corporation has been mentioned. In the said list, names of 11 candidates, who had appeared in the written/typing test, in pursuance to advertisement, Annexure P1 have been mentioned and it has been further stated that only two candidates could qualify the written examination out of the said 11 candidates but the said two persons could not qualify the type test. During the course of arguments, learned counsel for the respondents has submitted that the said candidates have failed to qualify the written/typing test held in pursuance to the advertisement Annexure P13.

Thus, in view of para 8 of the affidavit filed by the respondents reproduced above, petitioners could not have been issued the appointment letters as they had failed to qualify the typing test. Petitioners have failed to submit applications in pursuance to the advertisement Annexure P13. Despite permission given by this Court vide order dated 20.10.2015, petitioners had not appeared in the test. As per the respondents, the written test/type test, in pursuance to the advertisement Annexure P1, were quashed on account of certain irregularities detected in the recruitment process.

Keeping in view the totality of circumstances of the present case discussed above, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India is made out.

Dismissed.

**(Sabina)
Judge**

February 04,2016
arya