

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 15542 of 2013

Date of decision : January 18, 2016

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Surinder Pal

.....Petitioner

Versus

Haryana Vidyut Parsaran Nigam Limited
through its Managing Director and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Ravi Verma, Advocate for the petitioner.

Mr. Pardeep Singh Poonia, Advocate for respondent no.1.

Mr. Pervinder Singh Chauhan, Addl.A.G., Haryana.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The petitioner is seeking a writ in the nature of certiorari for quashing the selection/appointment of respondents no. 3 to 23 to the post of Shift attendant in the category of Scheduled caste made by Haryana Staff Selection Commission-respondent no.2 (hereinafter referred to as 'the Commission').

On the requisition sent by the Haryana Vidyut Parsaran Nigam Limited (respondent no.1), the Commission (respondent no.2) vide its advertisement no. 13/2007 (Annexure P-4), category no.15, advertised 560 posts of Shift attendant in the pay scale of Rs.4000-

6000. Out of 560 posts of Shift attendant, 117 posts had been reserved for Scheduled caste category. As per the advertisement, Matric with two year ITI certificate/course in Electrician, Electronics/Wireman trade with knowledge of computer has been prescribed as essential qualification for the post of shift attendant. In response to the aforesaid advertisement, the petitioner applied for the post of Shift attendant in the category of Schedule caste. After scrutinizing the application forms of all eligible candidates, the respondent-Commission had shortlisted 8 times candidates for interview for the post of shift attendant on the basis of essential academic advertised qualification and issued a public notice dated 19.7.2008 (Annexure P-5) to the effect that the candidates belonging to Scheduled Caste category who have secured 67% marks had been short listed for the purpose of interview. In the said notice, it was also mentioned that those candidates who do not possess the weighted score for short listing under the respective categories were advised not to contact the Commission in this regard. The petitioner was interviewed on 20.11.2008 in the Commission's office at Panchkula under Roll No. 03146 in the category of Scheduled caste. The petitioner was having a good academic record so far his matriculation examination as well as Diploma in Electronic Mechanic trade in Ist Division in addition to having experience as Wireman/Technician. The result was published on 6.8.2010 (Annexure P-7). The petitioner is challenging the selection list on the grounds that:

I As per the advertisement (Annexure P-4) matric with 2 year certificate course in Electrician/Electronic/Wireman trade from ITI with knowledge of computer has been prescribed as essential qualification for recruitment to the post of Shift attendant. But the candidates who were having certificate of Lineman from Vocational Education Department have been selected for the post of Shift attendant.

II Selection had been made of a candidate namely Rajesh Kumar (respondent no.23) who had not even signed their application forms

iii The petitioner was informed by the respondent-Commission vide its letter dated 27.8.2010 (Annexure P-8) that he had secured 44.72 marks (Academic qualification = 36.72 + viva voce = 8 marks) out of 75 marks. The petitioner made an application dated 15.9.2010 to the respondent-Commission under Right to Information act, 2005 in which he has sought information about 117 candidates who were selected for the post of Shift attendant in the category of

Scheduled Caste along with their marks in matriculation, ITI and interview. In response to the said application vide letter dated 19.10.2010 (Annexure P-9) respondent commission explained the selection criteria which was adopted for the post of shift attendant and vide letter dated 22.7.2011 (Annexure P-10) respondent-Nigam supplied the desired information to the petitioner in respect of 117 selected candidates for the post of shift attendant in the category of Schedule case by giving detailed marks obtained by the selected candidates in matriculation and ITI/Diploma.

On notice, a written statement was filed by respondent no.2, in which it has been admitted that vide Annexure P-4, 560 posts of Shift Attendant, Power Department Haryana were advertised. The petitioner belonged to SC category and he appeared in the interview against Roll No. 3146 and secured 44.72 marks (Academic qualification = 36.72 marks + viva voce = 8 marks) out of 75 marks as against 48.26 marks of last selected candidate in the main select list of this category. Respondents no. 3 to 23 obtained more marks than the petitioner and accordingly they were selected. After participating in the selection process, he cannot challenge the criteria that the process of interview was unfair or there was some lacuna in

the process. With regard to the objection of application form (Annexure P-11) of respondent no.23-Rajesh Kumar, he duly applied for the post and appended the Computer Certificate/ITI certificate showing 468 marks out of 700 marks with the application form. The application form was duly signed by him and he was rightly considered eligible by the Commission. Merely non-signing below the photograph did not make the candidate ineligible for the post. The Commission issued the Public Notice dated 19.7.2008 (Annexure P-5) for short-listing the candidates for interview but subsequently decided to call all the eligible candidates for interview vide Public Notice dated 29.9.2008 (Annexure R-2/1). Thus there was no requirement of 67% age of marks for interview in view of subsequent notice dated 29.9.2008 (Annexure R-2/1).

In a separate written statement filed by the Deputy Secretary, Haryana Vidyut Parsaran Nigam Limited, Panchkula it is stated that the whole process was carried out by the Commission which has been finalized on the basis of merit in the interview held in month of November 2008. All the selected candidates who have been issued appointment letter on the basis of final selection list (Annexure R-1/2) are working on the said post of Shift attendants since their date of appointment.

After hearing counsel for the parties and after carefully perusing the records of the case, I am of the view that this writ petition deserved to be dismissed. In the present case, after issuing the advertisement (Annexure P-4) all the eligible candidates were

called for interview and there was no shortlisting of candidates. Hon'ble Supreme Court in the case of **Chander Parkash Tiwari vs. Shakuntla Shukla 2002(3) RSJ 507** has categorically held that if a candidate appears at the interview and participate therein then only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair. This view has been followed in various judgments by Hon'ble the Supreme Court.

As regards to the aforesaid and in view of Hon'ble Supreme Court's judgment in the case of **Chander Parkash Tiwari's case (supra)** this writ petition is ordered to be dismissed.

January 18, 2016
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(**RITU BAHRI**)
JUDGE