

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

Date of decision: 08.07.2016

CWP No.20881 of 2012

Virender Singh

...Petitioner

Vs.

.State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Charanji Lal, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

Mr. R.K.Malik, Senior Advocate, with
Ms. Rimple Kadyan, Advocate, for respondent No.4.

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 ultimate argument raised by the petitioner boils down to the experience certificates possessed by the petitioner and the private respondent. The private respondent piped the petitioner in the selection process and secured appointment. The petitioner's experience certificate is for 07 months duration as against the private respondent's experience gained for 07 years, both in private employment with certificates produced before the Haryana Staff Selection Commission and duly placed on the record of this case and, therefore, I find no error in award of marks under the head of 'Experience' in the criteria adopted for selection to the post of Cane Master in the Prison Department, Haryana. Besides, the original record, produced by Mr. Rohtash Kumar, Assistant, Haryana Staff Selection Commission,

Panchkula, Haryana, where the petitioner's name stood in the waiting list had secured 18 marks as against the private respondent, who obtained 19 marks as per criteria adopted. Appointments from the waiting list were occasioned when the candidate who stood first in the waiting list did not accept the offer of appointment which refusal created right of appointment on person next below in merit. The private respondent was next in waiting and was, therefore, offered employment and has joined the post on 13.05.2011. The petitioner has made a statement that he does not challenge the criteria. That is how the debate has centered on the question of experience alone as a ground of challenge.

2. The petitioner's assertion that he is more meritorious than the private respondent is not acceptable on the facts of this case. The numbers recorded in the brackets i.e. (18.00) in Annexure P-3 (at Pg.30 of the paper-book) have been explained in the opening paragraph of the 'Advertisement No. 1/2009, Category No.22 (01 Posts' which reads: - "The result has been shown roll number wise and category wise and the marks secured by the last selected candidate in each category have been shown in brackets". This amply explains the petitioner's misconception that "Waiting 0004 and 0006 [scored] (18.00)" means that he is more meritorious. As against this, the information (Annex P-2) supplied by the Public Information Officer under the Right to Information Act, 2005, fits the above reproduced stipulation in the employment notice/advertisement when the letter intimates the petitioner of the factual position in the result declared as follows vide Annex P-3 at Pg.44 of the writ paper-book:

"2. It is intimated that Roll No.0004 has obtained 18.00 marks (Academic Qualification = 10 marks + Viva-voce= 8 marks) and the Roll No.0006 has obtained 19 marks (Academic Qualification = 17.00 marks + Viva-voce= 2

marks) out of 30 marks for the post of Cane Master against Advt. No.1/2009, Category No.22.”

3. I fail to see what benefit the petitioner can derive from the ruling in Rajasthan Pradesh V.S. Sardarshahar & Another Vs. Union of India & Others, Civil Appeal No.5324 of 2007 decided on June 1, 2010 which has no bearing on the facts of the present case. Similarly, the case cited by the learned counsel for the petitioner in Dr. Parikshit Bansal & Another Vs. Union of India & Others, 2013 (1) S.C.T. 468 delivered by the learned Single Judge of this Court which ruling is also besides the point since the Court dealt with a fact situation where marks for experience were based on self-styled statements of the selected candidate without supporting documents, which is not so in the case in hand.

4. Therefore, nothing further remains to be understood, examined or adjudicated upon in this case. The contention of the petitioner that he is more meritorious than the selected candidate, the non-official respondent, is a figment of his imagination based on a self-styled assertion which has no fixed address where relief can be posted. Facts speak against the petitioner. He has no case for interference by writ of certiorari or mandamus. Consequently, the present petition is hereby dismissed. No costs.

[RAJIV NARAIN RAINA]
JUDGE

08.07.2016
Vimal