

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

**CWP No.19305 of 2013
Date of decision: 18.01.2016**

Poonam RaniPetitioner

Versus

State of Haryana and othersRespondents

2. CWP No.19330 of 2013

Mahesh Sharma and others Petitioners

Versus

State of Haryana and othersRespondents

3. CWP No.19727 of 2013

Dev Raj Petitioner

Versus

State of Haryana and othersRespondents

4. CWP No.6372 of 2014

Shalender and another Petitioners

Versus

State of Haryana and othersRespondents

5. CWP No.1440 of 2015

Hawa Singh Petitioner

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioners (in CWP Nos.19305, 19330 of 2013
and in CWP No.6372 of 2014)

Mr. M.S. Rana, Advocate
for the petitioner (in CWP No.19727 of 2013)

Mr. J.P. Sharma, Advocate
for the petitioner (in CWP No.1440 of 2015)
and for respondent No.37 (in CWP No.19727 of 2013)

Mr. Samarvir Singh, DAG, Haryana.

Mr. Sanjeev Kodan, Advocate for respondent No.232
(in CWP No.19305 of 2013)

Mr. Sajjan Singh Malik, Advocate
for respondents No.194 and 144
(in CWP No.19305 of 2013)

Mr. Surender Saini, Advocate for respondent No.65
(in CWP No.19305 of 2013)

Mr. Amardeep Hooda, Advocate
for respondents No.17 and 185
(in CWP No.19305 of 2013)

Mr. Karamvir Singh Banyana, Advocate
for respondent No.268 (in CWP No.19305 of 2013)

Mr. Rajbir Sehrawat, Advocate for respondents No.8,
35, 45, 54, 120, 123, 148, 149, 156, 166, 174, 190,
217, 238, 241 and 274 (in CWP No.19305 of 2013)
and for respondents No.18, 22, 38, 90, 100, 154
and 196 (in CWP No.19330 of 2013)

Mr. Harender Singh, Advocate for respondents No.51,
153, 193, 262 and 294 (in CWP No.19305 of 2013)

Mr. B.S. Brar, Advocate for respondent No.110
(in CWP No.19305 of 2013)

Mr. R.K. Malik, Sr. Advocate
with Ms. Rimple Kadyan, Advocate
for the private respondents.

Mr. Kanwal Goyal, Advocate
for respondent-HPSC (in CWP No.19330 of 2013)
Mr. Bharat Kumar, Advocate
for Mr. G.S. Sandhu, Advocate for respondents No.17,
19, 95, 96, 125, 136 and 194
(in CWP No.19330 of 2013)
and for respondents No.17, 65, 95, 96, 125 and 140
(in CWP No.19727 of 2013)

Mr. Ashwani Kumar, Advocate
for Mr. Vivek Goyal, Advocate for respondent No.43
(in CWP No.19330 of 2013)

Mr. Sandeep Malik, Advocate for respondent No.94
(in CWP No.19330 of 2013)
and for respondents No.52, 54, and 177
(in CWP No.19727 of 2013)

Mr. Rajat Mor, Advocate for respondent No.87.
(in CWP No.19330 of 2013)

Mr. Arun Kumar Singal, Advocate
for respondent No.106 (in CWP No.19330 of 2013)
and for respondent No.106
(in CWP No.19727 of 2013)

Ms. Sonia G. Singh, Advocate
for respondent No.140 (in CWP No.19330 of 2013)
and for respondents No.17, 65, 95, 96, 125 and 140
(in CWP No.19727 of 2013)

Mr. Pardeep Solath, Advocate
for respondents No.181 and 184.
(in CWP No.19727 of 2013)

Mr. S.S. Mor, Advocate for respondent No.87.
(in CWP No.19727 of 2013)

Mr. Dinesh K. Jangra, Advocate
for respondents No.8, 30 and 92
(in CWP No.19727 of 2013)

Mr. D.S. Patwalia, Sr. Advocate
with Mr. Kannan Malik, Advocate
for respondents No.6, 23, 26, 34, 67, 84, 85, 97, 101,
102, 108, 116, 138, 144, 145, 157, 162, 167, 171, 175,
176, 187, 188, 191, 198 and 200
(in CWP No.19727 of 2013)

Mr. Suresh Ahlawat, Advocate
for respondents No.49 and 57
(in CWP No.19727 of 2013)

Mr. Virendra Rana, Advocate
for respondents No.83, 89, 115, 182 and 137
(in CWP No.19727 of 2013)

Mr. Devender Punia, Advocate
for respondents No.7, 16, 31, 36, 51, 63, 119, 121, 170
and 173 (in CWP No.19727 of 2013)

Mr. Abhimanyu Singh, Advocate
for respondents No.83, 89, 115, 137 and 182
(in CWP No.19727 of 2013)

Mr. H.N. Mehtani, Advocate
for respondent-HPSC
(in CWP Nos.6372 of 2014 and 1440 of 2015)

1. Whether the judgment should be reported in the digest. Yes

RITU BAHRI J. (Oral)

By this single judgment I intend to dispose of five writ petitions i.e. **CWP No.19305 of 2013** titled as ***“Poonam Rani vs State of Haryana and others”***, **CWP No.19330 of 2013** titled as ***“Mahesh Sharma and others vs State of Haryana and others”***, **CWP No.19727 of 2013** titled as ***“Dev Raj vs State of Haryana and others”***, **CWP No.6372 of 2014** titled as ***“Shalender and another vs State of Haryana and others”*** and **CWP No.1440 of 2015** titled as ***“Hawa Singh vs State of Haryana and others”***.

The petitioners have filed these civil writ petitions under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the appointment orders dated 21.11.2012 (Annexure P-3) of respondents No.4 to 307, who have been appointed to the post of Lecturer in English (School

Cadre) (General Category), on the basis of the selection criteria.

The brief facts of the case are that respondent No.2 issued advertisement No.3 of 2009 for recruitment of 1317 temporary posts of Lecturer (School Cadre) HES-II (Group-B) in various subjects in Haryana Education Department.

The selection process in the present case has already been upheld by Co-ordinate Bench of this Court in CWP No.17918 of 2012, titled as ***“Vandna Kaul vs State of Haryana and another”***, decided on 30.07.2015. As per that judgment, there were total 320 posts of Lecturer in English (School Cadre), out of which 199 posts were kept for General Category in which 133 posts were for male and 66 posts were for female category. The last date for receiving the applications was up to 17.07.2009, which was later on extended up to 19.08.2009. The criteria of selection was for shortlisting the candidates and in this regard, screening test was held. The candidates, who were not interviewed in the screening test have been selected. The following qualifications were prescribed for the post of Lecturer in English in the advertisement:-

- i. *Post-Graduate Degree in relevant subject from recognized University with at least 50% marks.*
- ii. *Certificate of having qualified School Teacher's Eligibility Test (STET)*
- iii. *Matric with Hindi/Sanskrit.*

The stand of Haryana Public Service Commission that after participating in the screening test, only those candidates who were found fit in the screening test, were considered for interview was accepted by the Co-ordinate Bench of this Court. The candidates having Roll Nos.04015 and 04041 has passed the screening test and the allegations that they had not passed the screening test was wrong. By upholding the selection process, the writ petitions were dismissed and it was held that interview committee had taken the oral interview of the candidates and the assessment made by the expert committee cannot be brought under challenge only on the ground that it was not proper and justified.

Learned counsel for the petitioners has argued that as per the selection criteria 60% marks had been kept for interview and 40% marks were kept for educational qualifications. He has further argued that the selection criteria was not published in the newspaper. He has placed reliance on ***“Ashok Kumar Yadav vs State of Haryana”***, 1987 AIR (SC) 454, ***“Union Territory of Chandigarh vs Dilbagh Singh”***, 1993(1) CLR 517, ***“Bishnu Biswas and others vs Union of India and others”***, in Civil Appeals No.4255-58 of 2014, decided on 02.04.2014, ***“Vandana Dhadwal and another vs Punjab University, Sector, 14, Chandigarh and others”***, 2010(4) SLR 725, ***“The Director General, Indian Council for Agricultural Research and others”***, 2011(2) SLR 723, ***“Anu Gupta vs Haryana State and others”***,

1993(1) SCT 726, ***“P. Mohanan Pillai vs State of Kerala and others”***, 2007(2) SCT 604 and contends that the appointment orders dated 21.11.2012 (Annexure P-3) is liable to be set-aside as the respondents without formation of any selection process has appointed the candidates.

First of all, in the present case, in the selection process there was no written test. However, the ratio of the judgment cited by learned counsel for the petitioners are not applicable in the present case as the facts of the present case are different. The Hon'ble Supreme Court in ***Ashok Kumar's case (supra)*** has opined that the allocation of 33.3% marks for viva-voce was very high. The percentage of marks for viva-voce test by Union Public Service Commission was 12.2%, which was found to be fair and just. In ***P. Mohanan Pillai's case (supra)***, 50% marks were fixed for the interview and the Hon'ble Supreme Court observed as under:-

“16. In this case allocation of marks for interview was in fact misused. It not only contravened the ratio laid down by this Court in Ashok Kumar Yadav and subsequent cases, but in the facts and circumstances of the case, it is reasonable to draw an inference of favouritism. The power in this case has been used by the appointing authority for unauthorized purpose. When a power is exercised for an unauthorized purpose, the same would amount to malice.”

In ***Director General's case (supra)***, the candidate was

not informed that whether the interview would be held for evaluating personal or intellectual qualities and allocation of 50% marks for the interview is highly excessive.

In the written statement filed by respondent No.2, the Commission has laid down the criteria (Annexure P-6), by allocating 40 marks for personal achievement and 60 marks for interview. The criteria was not framed by the Selection Committee at the time of interview and, hence, the selection on this account cannot be challenged by the petitioners. In a selection, where there is no written test, the allocation of 60 marks for interview is not excessive. In ***“Gurjit Singh vs State of Punjab”***, 1993(3) SCT 248, the Division Bench of this Court has upheld the selection on the post of Lab Attendants. In this case, the selection was based on an interview and there was no written test. Reference can be made to a judgment ***“Anzar Ahmad vs State of Bihar and others”***, 1994(1) SCT 484, wherein in paragraph 9, the Hon'ble Supreme Court observed as under:-

*“The decision of this Court in **R. Chitalekha and another vs State of Mysore and others**, 1964(6) SCR 368, **A. Peeriakaruppan, etc. vs State of Tamil Nadu and others**, 1971(2) SCR 430, **Nishi Maghu etc. vs State of Jammu and Kashmir and others**, 1980(3) SCR 1253, **Ajay Hasia etv. Vs Khalid Mujib Sehravardi and others**, 1981(2) SCR 79 and **Koshal Kumar Gupta and others vs State of Jammu and Kashmir and others**, 1984(3) SCR 407, relate to admission to educational institutions and fall in the first category. In*

Ajay Hasia's case (supra), it has been laid down that where selection is made on the basis of written test followed by interview, allocation of more than 15% of the total marks for interview would be liable to be struck down as constitutionally invalid. Although in that case the Court was dealing with admission to an educational institution viz., Regional Engineering College, a passing reference has been made to “public employment” in the following observation :

“We would, however, like to point out that in the matter of admission to College or even in the matter of public employment, the oral interview test as presently held should not be relied upon as an exclusive test, but it may be resorted to only as an additional or supplementary test and, moreover, great care must be taken to see that persons who are appointed to conduct the oral interview test are meant of high integrity, caliber and qualification.”

The Co-ordinate Bench of this Court in CWP No.12392 of 2011, titled as ***“Pankaj Sharma and another vs Secretary Staff Selection Commission, Panchkula and others”***, decided on 11.05.2015, had upheld the selection of Ayurvedic Dispenser which was based on an interview and there was no written test, as well, and it was held that the petitioners after participating in the selection process were estopped from challenging the criteria of allocation of 50 marks for the academic and 25 marks for the interview. Reference has also been made to a

judgment “*Shashindra Singh (Km.) vs Union of India and others*”, 2010(3) RSJ 682. By following the ratio of *Anzar Ahmad's case (supra)*, the writ petition was dismissed.

In the present case, the petitioners have participated in the selection process. The criteria was framed vide Annexure P-6 after the advertisement Annexure P-1, and in the absence of any written test the allocation of 60 marks for interview and 40 marks for personal academic is not on a higher side and the selection process has been upheld by the Co-ordinate Bench of this Court in Vandna Kaul's case (*supra*).

Keeping in view the above facts and circumstances, no ground for interference in the selection process is made out.

Dismissed.

(RITU BAHRI)
JUDGE

18.01.2016

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