

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

C.W.P. No. 18959 of 2015

Date of Decision:- 08.08.2016

Harjinder Singh and others

....Petitioners

vs.

Punjab State Power Corporation Limited & others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. K.S. Khehar, Advocate,
for the petitioners.

Mr. Girish Agnihotri, Sr. Advocate with
Mr. Arvind Seth, Advocate,
for respondents No. 1 and 2.

Mr. Kshitij Sharma, Advocate,
for respondents No.5 to 32.

Mr. Amrinderjit Singh, Advocate,
for respondent No.33.

Mr. J.S. Dhaliwal, Advocate for
Mr. H.S. Bath, Advocate for respondents No.3 to 5.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari quashing the merit lists (Annexures P-8 to P-13) for recruitment to 1000 posts of Linemen on contract basis which have been prepared without following the principles of natural justice. It has also been prayed that directions may be issued for reframing the merit lists after considering the

merit position of the petitioners as the criteria adopted by respondents is not only mala fide but the same is also contrary to interest of the petitioners just to debar them from selection.

Briefly, the facts of the case as made out in the present petition are that an advertisement for filling up 1000 posts of Linemen (on contract basis) on consolidated salary of ₹ 10,000/- per month was issued by respondent No.1-Punjab State Power Corporation Limited (hereinafter to be referred as 'PSPCL'). As per said advertisement, the applications were to be submitted online on the website of respondent No.1 from 26.12.2013 at 10.00 A.M. to 16.1.2014 upto 4.00 p.m. by the candidates who have passed matriculation or equivalent qualification and National Apprenticeship Certificate in Linemen trade along with two years' Apprenticeship in PSPCL/PSTCL or erstwhile PSEB. The age limit for applying to the above-said posts was 18 to 39 years as on 1.1.2014. Relaxation in age limit was to be given to certain categories. It was also mentioned in the advertisement that selection was to be made purely on basis of merit prepared by considering the marks obtained in National Apprenticeship Certificate in Linemen trade.

Petitioners and other eligible candidates applied for said post and merit list was prepared by considering marks of each candidate but the petitioners were not selected. Being unsuccessful in the selection, the present petition has been filed to quash the merit lists (Annexures P-8 to P-13).

Learned counsel for the petitioners submits that petitioners were more meritorious, still, they have not been considered and merit list

has been prepared by respondents just to give benefit to the selected candidates.

Learned counsel also submits that the selection list has been prepared on the basis of percentage of marks as against the maximum marks, either out of 650 marks or 520 marks. The marks obtained by the petitioners have come at a lower position on percentage basis as they had obtained marks out of 650 marks whereas the selected candidates obtained marks out of 520 marks. In case, the marks of the petitioners are taken out of 520 instead of 650, then petitioners would have found place in the merit lists prepared by the respondents.

Learned counsel appearing for the respondent-Corporation opposes the submissions made by learned counsel for the petitioners primarily stating that the selected candidates have not been impleaded as respondents and the present petition is liable to be dismissed on the ground of non-impleadment of necessary and proper parties. The petitioners have accepted the terms and conditions of the advertisement and have participated in the selection process as well. Same formula was adopted by respondent-Corporation for all the candidates and it cannot be said that it is mala fide or discriminatory in any manner. Learned counsel also submits that in clause No.9 of the advertisement, it was clearly mentioned that the merit was to be prepared as per the marks obtained in National Apprenticeship Certificate in Linemen Trade. Moreover, the candidates who had obtained the marks out of total 650 marks were awarded from three theory and one practical paper/subject and the candidates who have been awarded marks out of total 520 marks were awarded marks from four

theory and one practical subject/paper. The formula adopted by the respondent-Corporation was uniform. It does not make any difference if the total marks of the candidates were different as the selection lists were prepared on the basis of percentage of marks obtained by all the candidates.

Learned counsel appearing for respondents No. 3 to 32 and 33 also submits that uniform formula was adopted for preparation of the merit list. The main reason for reduction of marks from 650 to 520 marks was that earlier the Government Industrial Training Institutes which were functional through out the State of Punjab used to impart education/training in four subjects but subsequently the subjects were reduced to two by a decision of the Board.

Learned counsel also submits that the successful candidates were selected on their respective merit and it cannot be said that formula adopted in the selection was detrimental to the selected candidates.

Heard arguments of learned counsel for the petitioners as well as learned counsel for the respondent-Corporation and private respondents.

Issuance of advertisement for appointment to the posts and terms and conditions therein with regard to qualification, eligibility, selection criteria and relaxation in age are not in dispute. The petitioners are aggrieved of the selection lists which have been prepared on the basis of percentage of marks obtained in ITI examination conducted by different institutes under the control of Punjab State Board of Technical Education and Industrial Training, Chandigarh. The grievance of the petitioner is that their percentage has been calculated out of total 650 marks whereas the

percentage of selected candidates has been calculated out of total 520 marks. It is also contended by learned counsel for the petitioners that the chances of the persons whose percentage has been calculated out of 520 marks were more favourable as total marks are lessor than the total marks of the petitioners.

As per the specific condition of the advertisement, the merit list was to be prepared as per marks obtained in National Apprenticeship training Certificate in Linemen Trade and the petitioners being well aware, applied in pursuance thereof. The condition in the advertisement was never challenged by them. When they remained unsuccessful in the selection process, they have filed the present writ petition only on the ground that they were awarded lower percentage because of maximum marks whereas uniform formula was adopted and it does not make any difference in case the maximum marks are more as percentage out of maximum marks would be the same. The candidates who had obtained the marks out of total 650 marks have been awarded for three theory and one practical paper whereas the candidates who have been awarded marks out of total marks of 520 have been awarded for four theory and one practical paper. Nothing has been brought to the notice of this Court as to how the petitioners were in disadvantage position by awarding percentage of marks. A conscious decision was taken by the Punjab State Board of Technical Education and Industrial Training, Chandigarh, in the year 2008 by reducing the total number of marks from 650 to 520 in the examination of National Apprenticeship Certificate in Linemen Trade and thereby to impart training in two subjects instead of four subjects. It cannot be said that said decision

was detrimental to the interest of any candidate. It is only the apprehension of the petitioners that their marks have been calculated out of total 650 marks and not out of 520 marks. It cannot be said that any breach has been committed which caused harm to the interest of the petitioners, in case, the petitioners were not awarded marks like the selected candidates. Even nothing has been mentioned in the pleadings of the writ petition or during the course of arguments as to how it would have been beneficial to them if total marks were lesser. Moreover, the decision by the Board was taken in the year 2008 and the same has not been challenged. The decision of reducing the maximum marks is a policy decision and same was taken after having the opinion of the expert persons.

Moreover, the selection process was also specified in condition No.9 of the advertisement. The petitioners could have challenged the condition at the time of publication of the advertisement but they participated in the selection process and on finding themselves unsuccessful, they filed the present writ petition. It has also been well settled in various judgments that the candidates who have participated in the selection process once are estopped from challenging the process later on as they have accepted the terms and conditions of the advertisement. Moreover, the formula was uniform for all the candidates. The policy is the prerogative of the Government or the Executive and should not be interfered by the Court unless some breach has been caused to the interest of certain categories of candidates. Neither any mala fide has been shown to have been committed by the members of the Selection Committee nor any allegations have been levelled against them. Even no arbitrariness or

discrimination has been pointed out by learned counsel for the petitioners.

Accordingly, there is no force in the arguments raised by learned counsel for the petitioners and the petition being devoid of any merit is hereby dismissed.

August 08, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes