

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

CWP No. 20791 of 2014
Date of decision: 11.05.2016

Karam Singh and anotherPetitioner(s)

Versus

State of Punjab and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Amandeep Saini, Advocate,
for the petitioners.

Mr. Kamal Sehgal, Addl. A.G., Punjab.

Mr. Puneet Gupta, Advocate.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of the order dated 12.09.2014 (Annexure P-5) vide which, the Additional Director of Finance Department clarified to the respondent-Commission that the petitioners were to be considered for appointment under Register 'C' for the process years 2008, 2012 and 2013.

At the outset, counsel for the petitioner does not press the present petition on behalf of Amar Nath-petitioner no. 2 and only has addressed arguments regarding Karam Singh-petitioner no. 1.

The grouse of the petitioner is that in pursuance of the advertisement no. 2 dated 21.04.2014 (Annexure P-1), applications were invited for 25 posts of the PCS (Executive Branch) for register A-II (Ministerial Cadre Group A and B). Similarly, 9 posts were to be filled for Register 'C' also. The petitioner's case is that his application was duly

forwarded by the department alongwith the recommendation for consideration of the name of the petitioner through Register A-II against which the petitioner was issued roll number. However, the name of the petitioner was put in list 'C' even though the admit card had been given for Register A-II. It is, thus, submitted that this change of category at the level of the Commission was not justified and it has prejudiced the case of the petitioner. It is further submitted that no opportunity of hearing was as such given and the petitioner was not associated for the shifting of the categories. Counsel for the petitioner has placed reliance upon the judgment in ***CWP No. 21065 of 2014, Ravi Behal vs. State of Punjab and others*** decided on 29.02.2016 to submit that the change was not justified and, therefore, without recording any reasons, the said action could not have been done at the level of the respondents as the petitioner's rights were involved.

In the written statement filed by respondents no. 1, 2 and 4, it has been averred that the petitioner submitted the application and sent the hard copies to the respondent-department for further submission to the respondent-Commission. It was further averred that though the application of the petitioner was for Register A-II but vide letter dated 28.05.2014 (Annexure R-1) in continuation of the advertisement, the application was sent to the Commission under Register 'C'. Thereafter, the clarification was made on 12.09.2014, which is the impugned order.

The stand of the Commission, on the other hand, was that though the petitioner had applied under Register A-II and the department had forwarded the name in Register A-II but the clarification was made on 12.09.2014. Accordingly, the admit card was issued provisionally for appearing in the screening test in Register A-II subject to receipt of

confirmation by the Government regarding their candidature in the Register on 27.06.2014 (Annexure P-3). It is pertinent to mention that the test was held on 06.07.2014. As per the general information for the candidates (Annexure R-5/1), the eligible candidates had to apply online as per Clause 5.2 and as per clause 5.4, the hard copy had to be sent through the head of the department. Clause 5.3 and 5.4 read thus:-

“5.3 The candidates can ONLY apply by filling Online Application Form, a link of which is available on the website of the Punjab Public Service Commission www.ppsc.gov.in

5.4 After filling online application form and depositing fee, the candidates are required to submit the hard copy (i.e. the print) of duly filled online application form along with copy of certificates/documents/bank challan etc. through proper channel i.e. through Head of the Department.”

The last date for applying was 30.05.2014 through proper channel, failing which, there was to be a rejection of the candidature as per Clause 5.6 and clause 6(iii). The relevant portion reads thus:-

“5.6 Failure of a candidate to submit the hard copy of his/her Online Application Form along with requisite certificates/documents through Proper Channel by or before the closing date in the office of PPSC, Patiala SHALL result in rejection of his/her candidature summarily.

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(6)(iii) Last Date of submitting the Hard Copy in the office of PPSC i.e. print of the duly filled Online Application Form along with certificates/documents and Challan Form (PPSC copy only) 30.05.2014 till 5 P.M.

(It may be noted that the Last date of filling Online Application Form is 12-05-2014. The last date of submission of Print out of the Online Application Form is 30-05-2014. The extra time is given only to cater for the time required in forwarding Application through Proper Channel and travel time of post/postal delay if any.)”

It is not disputed that the date was extended till 30.06.2014. The department of the petitioner, however, on 28.05.2014 (Annexure R-1), sent a communication to the Commission that the officials who had submitted their applications for Register 'C' online for the Punjab Civil Service (Executive Branch), the hard copies of the applications alongwith the academic certificates, receipt of fees, other related documents and recommendation of the Head of the Department etc. were sent by the Additional Director for the Secretary Finance-cum-Director (T and A Finance Department). As per the 1976 Rules, the Commission is to invite applications from amongst the members of Group 'A' and Group 'B' services holding ministerial appointments for Register A-II and as per Rule 10(2), the applications received alongwith service records is to be processed by the Commission for adjudging the suitability of the candidates. The list of eligible candidates three times the number of vacancies is thereafter to be prepared after conducting the screening test. Similarly, under Rule 15(2), a similar procedure is to be done for Register C for members of service not covered under Rules 9, 10 and 11. The relevant Rules read thus:-

“10(1) The Commission shall invite the applications from amongst the members of Group 'A' and Group 'B' services, serving in connection with the affairs of the State of Punjab holding ministerial

appointments which shall be submitted to the Commission through proper channel alongwith their service record.

(2) The applications received alongwith the service records of the candidates shall be processed by the Commission for adjudging the suitability of such candidates, and after conducting a screening test, the Commission shall prepare a list of eligible persons, three times of the number of vacancies.

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15(1) The Commission shall invite the applications from amongst the members of Group 'A' and Group 'B' services, serving in connection with the affairs of the State of Punjab, who are not covered under any of the categories of officers or officials mentioned in rules 9, 10 and 11 which shall be submitted to the Commission through proper channel alongwith their service record.

(2) The applications received alongwith the service records of the candidates shall be processed by the Commission for adjudging the suitability of such candidates, and after conducting a screening test, the Commission shall prepare a list of eligible persons, three times of the number of vacancies.”

It is, thus, apparent that the department of the petitioner had forwarded the case of the petitioner on 28.05.2014 under Register 'C' and sent along the relevant record before the cut off date. The Commission had put the petitioner in the list of candidates whose candidature was subject to the receipt of confirmation by the Government on 27.06.2014, even though, it is apparent that the communication had already been received.

Thus, from the conjoint reading of the terms of the handbook and from the Rules, it is apparent that the Government had forwarded the

name of the petitioner and put the same in Register 'C'. Therefore, the petitioner can have no such grouse that he should be considered for Register A-II. It is also pertinent to mention that initially, the petitioner was working in the Audit Branch (Accounts), Amritsar and his application had been initially forwarded by the Deputy Controller, Treasury and Accounts. As per the Rules, the Head of the Department would be the competent authority and, therefore, the petitioner can have no such grouse since initially, the application was not as such through the competent authority and his case had only been forwarded to the Director (Treasury and Accounts) alongwith the recommendations. The Head of Department had, on 28.05.2014, forwarded the case as per the terms of the advertisement of 6 officials for consideration under Register C. The petitioner's name is also in the said letter and if the same was not sent, then application of the petitioner could not have been considered in either of the two Registers.

Reliance upon the judgment in *Ravi Behal's case (supra)*, in the present case, would not be of much help because in that case, the petitioner's case had been forwarded by the competent authority in Register A-II and, thereafter, he had been shifted to Register 'C' and it was in such circumstances, this Court had directed that the person had been adversely affected and had not been given opportunity of hearing before shifting him.

The respondent-Commission was well justified in holding out that it was not for this Court to interpret that which of the employees is to be considered under which Register and reliance has been placed upon ***CWP No. 21010 of 2014, Mohinder Kumar vs. State of Punjab and others*** decided on 10.10.2014. In the said case, one Legal Assistant working in the Department of Agriculture had sought consideration for register A-II. The

plea was rejected by holding that it is not for the Court to interpret whether the particular employee falls within the ambit of ministerial employee if otherwise not specified as such by the competent authority by a general or special order. The Division Bench upheld the said reasoning by holding that it will be the administrative decision of the State Government.

Resultantly, this Court is of the opinion that the order dated 12.09.2014 (Annexure P-5) does not suffer from any infirmity, which would warrant interference and the present writ petition is dismissed.

11.05.2016
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(G.S. SANDHAWALIA)
JUDGE