

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

Date of decision: 28.11.2016

CWP No.20191 of 2016

Benam Singh Parashar & others

...Petitioners

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Deepak Girotra, Advocate,
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana,
for respondents No.2 & 3.

RAJIV NARAIN RAINA, J.

The petitioners are aspirants for appointment to the posts of Instructors in ITIs to be filled on contractual basis at a fixed salary of ₹14,000/- per month by the Societies which run the ITIs. They have challenged the criteria for filling up the vacant posts of Instructors adopted vide memo dated 30.03.2016 by the State Government speaking through the Additional Chief Secretary to Government of Haryana, Industrial Training Department. A Selection Committee has been constituted headed by the Divisional Commissioner including the Director General or his representative; two Trade Experts, one from industry and one from ITI, & all Principals in District Headquarters as Members, while Senior Zonal Principal as Member Secretary. The criteria for selection has been laid down by assigning marks for (1) Essential Qualification having (i) Diploma/Degree in relevant trade; & (ii) NTC/NAC and CTI; (2) Matriculation; (3) 10 + 2; (4) Extra qualification over and above essential

qualification; & (5) Industrial/teaching experience over and above the required essential experience. The total score board tally is of 140 marks. Thus, the procedure has been laid down for the selection process.

The challenge is that the criteria has been issued without adhering to the norms issued by the Union of India, Ministry of Labour & Employment, Directorate General of Employment & Training New Delhi and the Rules notified by the State of Haryana and for these reasons, the criteria (Annex P-6) deserves to be quashed.

The second grievance is that the State has not followed the basic rules of recruitment and has not applied the ratio of 50 : 50 as against Diploma/Degree holders and CIT holders while issuing the impugned letter dated 30.03.2016 and publishing the tentative merit list. It is complained that not a single seat has been given to CTI/CITs candidates.

The petitioners claim that there is friction between the criteria adopted and the guidelines of the National Council for Vocational Training (NCVT) issued vide letter dated 07.01.2016. A perusal of the letter shows that it lays down norms for 'Recruitment of Instructors in ITIs and Mandating Crafts Instructor Training Scheme (CITS) for all ITI Instructors'. The petitioners grievance is that due weightage has not been given to courses of technical qualification and CTI/CITS, POT etc. and the required experience in particular trade and, therefore, the impugned letter is illegal, arbitrary and cannot be sustained in the eyes of law and is, thus, required to be set aside. The petitioners further complain that the State has illegally given undue weightage to the marks for 10 and 10+2 examinations which would be given nominally as per rules and also as per guidelines issued by the Union of India. Due to this, the more experienced holders in technical trades are left far behind only because of adding the marks of classes 10 and

10+2. Awarding of one mark above 50% marks is illegal, they say. The letter is bad because the respondents have fixed the essential qualification as Diploma/BE Degree or NTC/NAC so the criteria prevalent was that the highest percentage of marks out of above certificates was taken, but in the present tentative list, 20 marks extra have been give to candidates who held two qualifications of NTC and Diploma (2 years course), but have not been assigned any additional marks to candidates who had two qualifications of NTC and NAC (2 years course). Directions are sought to quash the letter and to direct the respondents to lay a new criteria and then conduct the fresh selection process by nullifying the selection.

However, I find that there is no allegation in the petition that the criteria laid down is contrary to the rules of service of the Department governing the post. Furthermore, the entire case is built on the monument of regular posts of Instructors in ITIs. The respondent Government is not making regular recruitment but is filling these posts on contract basis on fixed salary and so long as qualified persons are selected and appointed, the petitioners can have no legitimate grievance for setting aside the criteria on any of the grounds taken in the petition.

On 20.10.2016, when this matter came up for hearing, this Court had put the State to notice to justify as to why the post of Instructors in ITIs were being filled on contractual basis on payment of consolidated salary of ₹14,000/- per month thereby preventing regular recruitment. The State was asked to explain on affidavit why the recruitment on contractual basis should not be halted by a Court directive when the field is occupied by Rules called 'the Industrial Training Department, Haryana, Field Offices (Open Group-C) Service Rules, 2013'.

Today, an affidavit has been filed on behalf of Mr. A.K.Singh, Principal Secretary to Government of Haryana, Department of Industrial Training. He has explained the difficulty faced by the Department where there exist 1500 vacancies of Instructors in various trades in ITIs which status is adversely affecting the training of the students admitted in these institutions concerned. It is informed that the Department has been regularly sending requisitions to fill up all the posts which are lying vacant to the Haryana Staff Selection Commission. The Commission vide letter dated 05.10.2015 sent back the said requisitions to the Department raising some objections/observations. The Department after removing these objections has again sent the requisition for filling up the vacant posts of Instructors to the Commission vide letters dated 15.01.2016 and 11.03.2016. As the posts of Instructors are lying vacant and the regular recruitment is under process by the Commission, then the only option left with the Department is to fill these posts on contractual basis, as per laid down policy, which is in public domain. The present contractual recruitment process is an interim measure in the larger public interest in order to ensure that the training of the admitted students does not suffer. The educational standards would not be lowered because the contractual appointees and the regular Instructors hold the same minimum educational qualifications as per service rules. The arrangement is stop gap and arisen by necessity. The criterion contains room for weightage for the educational qualifications possessed by candidates and provides marks for extra/higher qualification and further provides marks for industrial/teaching experience over and above the required essential experience. Since the Department is suffering from a huge shortage of regular Instructors, a situation adversely affecting the training of students admitted to the institutions and in order to tackle this alarming situation, the

Department is left only with the remedy of engaging Instructors on contractual basis, as per Government outsourcing policy dated 16.02.2009 and amended policy dated 06.04.2015. If the process of recruitment is halted, it would adversely affect the public interest as the training of the students will suffer and it shall further jeopardize the future career of the students enrolled in the ITIs. The affidavit adequately explains the ground level position and since the recruitment is through an outsourcing policy it is a legally available avenue to make immediate arrangements in public interest to bring in Instructors on contractual basis to avoid destruction of studies of the student body in the various ITIs in Haryana.

This Court is, thus, satisfied that there is nothing remiss in the selection by way of a stop gap arrangement on the doctrine of necessity and public interest before the Government and the Commission conduct a selection process which would bring in regular recruits. There is nothing illegal, arbitrary, perverse or unconstitutional in the criteria adopted vide letter dated 30.03.2016 (Annex P-6). It cannot be said that the criteria would lead to destruction of merit in contractual service. Accordingly, I find no reason to interfere in this case in exercise of writ jurisdiction to disturb the selection and would dismiss the petition.

As a result of the above reasons recorded, the petition is dismissed without any order as to costs.

28.11.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*