

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22746 of 2016(O&M)

Date of decision:15.11.2016

Satish Kumar Malik & ors.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Raj Kapoor Malik, Advocate,
(in CWPs No.22746 and 23164 of 2016)
Mr. Girish Agnihotri, Sr. Advocate, with
Mr. Ishaan Bhardwaj, Advocate, in CWP No.22871 of 2016
Mr. Sanjay Kaushal, Sr. Advocate, with
Mr. Sunny Bhardwaj, Advocate, (in CWP No.19032 of 2016)
Mr. AK Ghalawat, Advocate, (in CWP No.23015 of 2016)
Mr. Naresh Kaushik, Advocate, (in CWP No.22943 of 2016)
Mr. Sumit Sangwan, Advocate, (in CWP No.23044 of 2016)
Mr. Ravinder Kumar, Advocate, (in CWP No.23287 of 2016)
Mr. Jagjeet Beniwal, Advocate, (in CWP No.5759 of 2016)
Mr. JK Sehrawat, Advocate, (in CWP No.19224 of 2016)
Mr. Sanjeev Majra, Advocate, (in CWP No.22016 of 2016)
Mr. VD Sharma, Advocate, for
Mr. SS Kharb, Advocate, (in CWP No.23249 of 2016)
Mr. NS Panwar, Advocate, (in CWP No.23542 of 2016)
Mr. Jagjot Singh, Advocate, (in CWP No.23556 of 2016)
for the petitioner(s).

Mr. BR Mahajan, Advocate General, Haryana with
Ms. Shruti Jain Goyal AAG, Haryana.

Mr. D.K. Khanna, Advocate, for respondent No.4
in CWPs No.19032, 19224 & 22016 of 2016).

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of the above-mentioned case as well as other connected writ petitions* tabulated at the foot of the order, as common questions of law and fact are involved in them which can conveniently be decided by a common order.

2. On November 8, 2016, this Court heard Mr. B.R. Mahajan, learned Advocate General, Haryana and passed the following order in the presence of parties :-

“Heard Mr. Mahajan, learned Advocate General, Haryana, on the issues involved in these cases which fall for determination. He would return after holding parleys with the Commission on the touchstone that the selection should result in a fair and transparent appointments, where merit is not denied to any of the eligible candidates, who have qualified the HTET, which is one of the components of eligibility for appointment as PGT (Mathematics).

To come up on 10.11.2016 at 2.00 P.M.

The respective counsel in the connected cases will furnish copies of their petitions to Ms. Goyal, by 5.00 O'clock today against receipt from the A.G. Office. Those counsel, who do not furnish their paper books by 5 O'clock will not be heard on the date fixed on their petitions and they would stand dismissed automatically without reference to the Court.

A photocopy of this order be placed on the connected files.”

3. When the matter was taken up for resumed hearing on November 10, 2016, the moot issue was considerable debated at length and the respective learned counsel heard in the respective cases and the following order was passed:-

“Heard Mr. Mahajan, Advocate General, Haryana for the Commission.

The members of the Commission have consulted the Advocate General, Haryana and sought his advice on the query of the Court that as to why the scrutiny process should not first be completed before applying the short-listing formula of calling

candidates not exceeding twice the number of vacancies. During the parleys between the Advocate General, Haryana and members of the Haryana Staff Selection Commission I am told, there is a consensus that in the Constitutional scheme of appointments having regard to Articles 14 & 16 a fair and transparent selection would necessarily involve scrutiny first and then interviews in the natural order of things. Meaning thereby, scrutiny to weed out ineligible candidates as have not passed the HTET or are disqualified for other reasons and thereafter from the total number of eligible candidates identified the formula of shortlisting should be applied so that merit is confined amongst eligible candidates and not a mixture of eligible and ineligible candidates which method would have distorted the ratio. Therefore, the following directions in conclusion of the case are issued:-

- 1) Commission will determine the number of eligible candidates who have been interviewed so far.
- 2) The further interview process should be stalled.
- 3) The Scrutiny Committee to weed out all ineligible candidates from the list as have not qualified HTET etc.
- 4) The number of candidates determined in this manner be accounted for with the eligible candidates already interviewed in one pool and then the formula of calling candidates not exceeding twice the number of vacancies be applied. Thereafter, interview process should be re-started of the remaining eligible candidates.
- 5) The eligible candidates who have already been interviewed will not be part of the further process of interviews. Their scores in the interview will stand for determination of final merit in the selection process.

For the moment, these directions will hold good for PGT (Mathematics).

Since there are other subjects for which vacancies have been advertised in large numbers, Mr. Mahajan prays that the matter should be posted to a short date so that the entire subjects can be re-examined and the process reviewed by the Commission.

List on 15.11.2016.

To be shown in the urgent list.

A copy of this order be given to Ms. Shruti Goyal attested by the Bench Secretary.

A Photocopy of this order be placed on the files of the connected cases.”

4. The respondent-Commission under advice of the learned Advocate General, Haryana, has gracefully realized the prudence and impressing the Commission that before the interview process starts in all of the advertised subjects including the two under consideration for the present in the on-going selection process for appointment of Postgraduate Teachers (PGT), the formula adopted for determining the eligible candidates to be called for interview so as not to exceed twice the number of vacancies advertised in each of the subjects would be completed first and then the interviews started/restarted.

5. Mr. Mahajan submits that the State Government/Commission will implement the directions in the order dated November 10, 2016 reproduced in paragraph 3 above. While assuring implementation, Mr. Mahajan has pointed out by way of precaution that the word “all” in direction 3 of the said order [supra] may be deleted from that direction as it may create complications which can be prevented if the direction is modified by exclusion of the word. He submits that by deletion of this word

can be promoted of determining a fair quantum of candidates to be called for interview by the short listing method and at the same time the end result achieved, and if allowed to be deleted, will be kept intact where eligible candidates may far out number the vacancies advertised in each of the subjects. This would satisfy the formula adopted for short listing the candidates having regard to the extraordinarily large number of applications received from the public in response to the employment notice. His request appears genuine and bona fide and is therefore accepted.

5. With this deletion, nothing remains to be decided or adjudicated in these cases any longer. Mr. Mahajan assures the Court that thinking process in the order dated November 10, 2016 will be taken to be its logical end in producing merit in a fair and transparent manner so that no eligible candidate feels aggrieved by non-consideration of his right of participation and consideration in the selection process. In view of the above, these petitions are disposed of on the valuable assurance given by learned Advocate General, Haryana that the Commission will apply the principles contained in the directions in the order dated November 10, 2016 which is made absolute by deleting the word “all” from direction 3. Accordingly, the horse has been put before the cart for the selection process to proceed in a fair and transparent manner without scope of distorting the eligibility criterion as against the short listing method adopted [which is fair] by removing ineligible candidates from the aggregate of calling candidates not exceeding twice the number of vacancies in all the advertised categories of posts. The competition confined to the eligible candidates without tending to fall out at a premature stage short of the viva voce.

6. I am not only happy to note but am thankful to the timely intervention of the learned Advocate General, Haryana in these cases, on a request of the Court for his presence to hold parleys with the Commission, which has saved the day and stemmed the present and future litigation brought to an amicable end, hopefully, to the satisfaction of the learned senior and other counsel for the petitioners.
7. Consequently, no orders need to be passed in pending applications, in any, in this clutch of cases.
8. Further steps may be taken by the respondent Commission in the light of the above and all other in its wisdom which may not be present in the mind of the Court.

(RAJIV NARAIN RAINA)
JUDGE

15.11.2016
monika

Sr. No.	Case No.	Parties Name
1	CWP-22871-2016	RAJESH AND OTHERS V/S THE STATE OF HARYANA AND OTHERS
2	CWP-23015-2016	PREM PARKASH AND ORS V/S THE STATE OF HARYANA AND ANR
3	CWP-22943-2016	RENU SHARMA V/S HARYANA STAFF SELECTION COMMISSION
4	CWP-23044-2016	SANTOSH KUMARI & ANR. V/S STATE OF HARYANA & ORS.
5	CWP-23164-2016	MUNESH & ORS V/S STATE OF HARYANA & ORS
6	CWP-23287-2016	POONAM KUMARI AND ORS V/S STATE OF HARYANA AND ORS
7	CWP-5759-2016	UMESH KUMAR AND OTHERS V/S STATE OF HARYANA AND ORS
8	CWP-19224-2016	REENU V/S STATE OF HARYANA AND OTHERS
9	CWP-19032-2016	DESHRAJ AND ORS. V/S STATE OF HARYANA AND ORS.
10	CWP-22016-2016	REKHA DEVI V/S STATE OF HARYANA AND ORS

Sr. No.	Case No.	Parties Name
11	CWP-23249-2016	MANISH MOHAN AND ANOTHER V/S STATE OF HARYANA AND OTHERS
12	CWP-23542-2016	BALVINDER SINGH & ORS V/S STATE OF HARYANA & ORS.
13	CWP-23556-2016	SHIFA AND ANOTHER V/S STATE OF HARYANA AND OTHERS

(RAJIV NARAIN RAINA)
JUDGE

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Whether speaking/reasoned	Yes
Whether reportable	Yes