

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.636 of 2014

Date of Decision: 27.05.2016

Vinod Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

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

Present: Mr. B.D. Sharma, Advocate,
for the petitioner.

Mr. Nikhil K.Chopra, Addl. AG, Punjab.

Mr. R.Kartikeya, Advocate,
for respondent No.2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The challenge in this petition is to the selection and appointment of the private respondent as Building Inspector in the respondent Corporation.

2. The petitioner appears to desire the more “lucrative” job of a Building Inspector in Municipal Corporation which describes the malaise of the times. After the selection and appointment of the non-official respondent, the petitioner, the Court is informed, has secured employment in 2014 as a Draftsman in the Punjab Water Supply and Sanitation Department, Patiala. The petitioner and the non-official respondent were competitors for the post of Building Inspector. The non-official respondent has been selected on the basis of higher merit by more marks secured by

him in the Diploma as against the petitioner and that in my considered view is reasonable classification. The marks in the Diploma were taken into account by the respondent only for the reason that both secured the same marks and the tie had to be somehow broken.

3. In order to break the tie the marks in the minimum prescribed qualification for the post were adopted as the criteria to break the impasse. There is no legal error in resorting to such a method which is not an unreasonable differentiation by classification. If the tie breaking rule was not formulated in the advertisement that would not mean that such a criteria was beyond jurisdiction to adopt so long as it stands to common sense, the action cannot be faulted or for this court itself to find a workable solution to tide over a vexed problem encountered by the respondent corporation faced with a situation not contemplated when the petitioner and the non-official respondent secured equal marks in the criteria adopted for the selection. Some free-play in the joints is a recognized principle to follow in administrative action when it is intended for good and sufficient cause, in the present case, by looking at the scores achieved in the Diploma examination. Action taken is perfectly justified. Otherwise there would have been a stalemate.

4. No ground is made warranting interference in writ jurisdiction. The petition is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

27.05.2016
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