

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

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**CWP-13891-2012 (O&M)
Date of decision: 07.03.2017**

Rajwati

....Petitioner

Versus

Haryana Public Service Commission and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr.D.S.Rawat, Advocate for the petitioner.

Mr. H.N.Mehtani Advocate for respondents no. 1.

Ms. Shruti Goel, AAG, Haryana.

Mr. R.K.Malik Advocate with
Mr. Kuldeep Sheoran, Advocate for respondents No.3 & 4.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the selection and appointment of respondents No.3 and 4 to the post of Hindi Lecturer and further sought for a direction to respondents No.1 and 2 to select and appoint the petitioner to the post of Hindi Teacher under ESM/DESM (Female Category). The Haryana Public Service Commission (for short 'Selection Commission') issued advertisement to fill up various posts on 17.06.2009 while fixing the last date for submission of application as 17.07.2009. Further corrigendum was issued on 30.04.2010 while extending the last date from 17.07.2009 to 31.05.2010. Petitioner,

respondents no.3 and 4 are candidates for the recruitment to the post of Hindi Lecturer (School Cadre) under category ESM, DESM (Female). Pursuant to the advertisement on 26.12.2010 for short listing of candidate screening test was conducted and result were announced on 31.12.2010. In the result against DESM (Female category) is concerned petitioner's roll number was reflected as 05939 whereas 3rd and 4th respondent's roll Nos.5331 and 8392 was not incorporated or reflected. On 21.12.2011 screening test result dated 31.12.2010 was revised pursuant to the directions of the court while notifying revised screening test result insofar as ESM category it was stated that "there is no change in the previous result". Pursuant to the screening test result those names which were reflected in result list as well as revised list were called for interview during the period from 23.01.2012 to 28.01.2012. On 11.04.2012 final select list was notified in which petitioner's roll number was not included. On the other hand, roll numbers of respondents No.3 and 4 were included in the ESM category. The petitioner submitted RTI application to get certain information in respect of respondents No.3 and 4 how their names were reflected in ESM category when their roll numbers were not reflected in the screening test result which was notified on 31.12.2010 read with revised list dated 21.12.2011.

2. Learned counsel for the petitioner submitted that roll numbers of respondents no. 3 and 4 were not reflected either in the main list or in the revised list issued on 31.12.2010 and 21.12.2011 respectively. Therefore, the selection and appointment of respondents no.3 and 4 to the post of

Hindi Lecturer (School cadre) is arbitrary and same is manipulated by the selection commission while entertaining their representation to consider their candidature under DESM category subsequent to the notification of revised screening test result on 21.12.2011. Hence the selection and appointment of respondents No. 3 and 4 to the post of Hindi Lecturer (School Cadre) is liable to be set aside.

3. Per contra, learned counsel for the selection commission submitted that respondents No.3 and 4 submitted their representation for consideration of their names under DESM category as their roll numbers have been left out on 31.12.2010 and also on 21.12.2011. After entertaining their representations to consider their candidatures under DESM category having regard to merit of respondents No. 3 and 4 compared to the petitioner, respondents No. 3 and 4 were selected and appointed. Thus, the petitioner has not made out a case so as to interfere with the selection and appointment of respondents No.3 and 4.

4. Learned counsel for the petitioner also contended that respondents No.3 and 4 do not have the valid DESM certificate so also passing of STET exam. The same has been resisted by the selection commission stating that the last date of making of application was extended from 17.07.2009 to 31.05.2010. Thus, passing of STET examination by respondents no.3 and 4 are within the last date. Therefore, the contention of the petitioner is liable to be rejected insofar as DESM issue is concerned. It was pointed out that 3rd respondent has produced ex-serviceman certificate dated 21.02.2012 which was entertained. Insofar as 4th respondent is

concerned, her certificate of ex-serviceman is DESM certificate of June, 2009 it is within the last date prescribed for the post.

5. Learned counsel for respondents no.3 and 4 submitted that respondent No.3 had obtained 2 DESM certificates. One is of the year 2009 and other one is dated 21.02.2012. At the time of making an application 2009 certificate was enclosed. At the time of interview certificate dated 21.02.2012 was produced. Therefore, there is no infirmity since the respondents selection commission have entertained the certificate dated 21.02.2012. 4th respondent fulfills the requisite qualification prescribed for the post including DESM certificate. Thus, petitioner has not made out a case against 4th respondent. Hence, the petition is liable to be rejected.

6. Heard learned counsel for the parties.

7. Having regard to the dates and events of the process of selection it is evident that the last date for submission of application was 31.05.2010 with reference to corrigendum dated 30.04.2010. Thus candidates should have all eligible certificates as on 31.05.2010. The selection commission have not included respondents no. 3 and 4 in the select list of screening test which was notified on 31.12.2010 pursuant to the test conducted on 26.12.2010. In the said list roll numbers of respondents no.3 and 4 were not reflected. Insofar as screening test result is concerned was the subject matter of the litigation wherein, this court has directed the selecting authority to prepare revised select list with reference to screening test. Accordingly, selection commission proceeded to issue revised select list (screening test) on 21.12.2011. The selection commission have not modified or revised the

screening test result dated 31.12.2010 insofar as DESM category where the petitioner's roll number is reflected. The respondents no.3 and 4 had the grievance of not including their names in DESM category with reference to screening test result announced on 31.12.2010. Even at the time of issuance of revised select list notified on 21.12.2011 the grievance of respondents No.3 and 4 was not considered. Therefore, the selection commission have manipulated the consideration of respondents No.3 and 4 in respect of non-including their names or roll numbers in the screening test result dated 31.12.2010. The same would have been rectified while preparing and notifying the revised list on 21.12.2011. In other words, for about one year time was consumed for the purpose of preparing revised result. That apart, 4th respondent's representation is dated 12.01.2011 which was entertained by the selection commission. If it is so then third respondent's name would have been reflected in the revised select list issued on 21.12.2011 for the reasons that representation entertained by the selection commission is in the month of January, 2011 whereas, the revised result list was announced on 21.12.2011. That apart, the interview dates were fixed for general during the period from 23.01.2012 to 28.01.2012. No reasons have been assigned as to why respondents No. 3 and 4 were not called for interview during the above mentioned period and they were interviewed in the month of March, 2012.

8. In view of these facts and circumstances, there is lapse on the part of the selection commission insofar as selection of respondents No.3 and 4. Hence, selection of respondent No. 3 to the post of Hindi Lecturer (College

Cadre) is set aside since her DESM certificate has been accepted is of the dated 21.02.2012 which is beyond the last date i.e. on 31.05.2010. In view of quashing of the selection of 3rd respondent, concerned respondent is directed to reconsider selection and appointment of the petitioner to the post of Hindi Lecturer (School Cadre) within a period of 3 months from today. However, it is made clear that petitioner is entitled for only notional appointment and he is entitle to all service benefits from the date of 4th respondent was appointed. Conduct of the commision is taken note of insofar as entertaining the representation of 3rd and 4th respondents beyond the revised screening test result i.e. 21.12.2011 and considering their candidature for selection beyond the last date and in order to favour them and denial of petitioner's selection. Hence, Haryana Public Service Commission is liable to pay cost of Rs.50,000/-. The same shall be paid in Legal Service Authority, Chandigarh within a period of 3 months.

07.03.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No