

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

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**CWP No.15287 of 2016
Date of decision: 24.10.2017**

Dr. Balkar Singh

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. AG, Haryana.

Mr. Deepak Balyan, Advocate,
for respondents No. 2 and 3.

Mr. J.S. Dahiya, Advocate for respondent No. 5.

Mr. Dharampal Babla, Advocate for respondent No. 6.

AMOL RATTAN SINGH, J.(ORAL)

By this petition the petitioner has challenged the selection of respondents No.5 to 8 to the posts of Assistant Professors (Rural Development) in the Haryana Institute of Rural Development, Nilokheri, the Director of which has been impleaded as respondent No.3 in the writ petition.

2. Learned counsel for the petitioner has submitted that the posts in question were advertised on 26.10.2012 vide the advertisement Annexure P-5, whereby applications for filling in three posts were invited.

29 candidates having applied, 19 were found eligible in the screening process, including the petitioner; and 9 appeared before the

selection committee on 18.02.2013. The interview was held on that date and eventually the aforesaid private respondents were appointed, pursuant to which they joined on different dates within February and March 2013.

Thus it is contended that against the three posts advertised, four persons were selected.

3. It has further been contended by learned counsel for the petitioner that the petitioner approached a counsel to obtain information under the RTI Act, as to the criteria for selection, in September/October, 2013, to whom a reply was given, a copy of which is Annexure P/10, but even that reply did not disclose the criteria by which selections were made. Subsequently, the petitioner applied himself on 22.08.2015, and in response thereto, vide Annexure P/11 again incomplete information was supplied.

The petitioner not being satisfied, filed an appeal to the State Information Commission, which passed an order, Annexure P-12 dated 29.03.2016, and in compliance of the directions given in the aforesaid order, the State Public Information Officer of the respondent Institute filed an affidavit, a copy of which is Annexure P-14, stating therein as follows:

- “1. That the Deponent is working on the post of Accountant in
O/o Haryana institute of Rural development, Nilokheri.
2. That no marks were awarded in the interview of Assistant
Professor held on 18.2.2013 as per record available in the
office.
3. That there is no record available with regards to the marks
of the candidates selected.

4. That only interview criteria was adopted to select the candidates on 18.2.2013 as per the record available in HIRD.

5. That no other related papers are available other than those supplied to the appellant Sh. Balkar Singh S/o partap Singh, VPO Kirori (Hisar).

6. That as per the available records, all the information records has already been supplied to the Appellant Sh. Balkar Singh and no information or record has been concealed.”

4. Learned counsel for the petitioner has, therefore, pointed out that firstly, as per clause 2 of the aforesaid affidavit, it is admitted that no marks were awarded in the interview held on 18.02.2013 for the posts in question, and thereafter, in Clause 4 it is stated that the interview was the only criterion adopted to select the candidates as per the record available.

The submission therefore, naturally, is that the entire process of selection was at the whims and fancies of the selection committee, with no criteria adopted whatsoever to select the persons called for an interview, on the basis of any merit.

5. In response to the present petition, a short reply of Dr. Attar Singh, Director of the respondent Institute, i.e. respondent No. 3, has been filed, stating therein that the selection having been made in the year 2013, and the present writ petition having been filed in the year 2016, it is not maintainable.

Mr. Balyan, learned counsel for respondent No.3, submits that as a matter of fact out of the four selected candidates, only respondent No.5, i.e. Dr. Wazir Singh, is working on the said post, with respondent No.4,

Sandeep Thind, having passed away on 27.11.2014, i.e. after about 1½ years of his selection. Thereafter, respondents No. 6 and 7 left the job on 16.12.2013 and 15.05.2014 respectively. Respondent No.8, Viniti Rani, is stated to have never been appointed, she being on the waiting list.

Mr. Balyan further submits that upon the aforesaid three posts having fallen vacant, they were re-advertised vide an advertisement dated 22.08.2014, against which three persons were appointed. Thereafter another advertisement was issued on 11.01.2015, against which another four persons were appointed.

6. Learned counsel appearing for respondent No. 5 has filed in Court today a written statement, on the basis of which, other than reiterating what has been stated by counsel for respondent No. 3 (i.e. the institute), he submits that the petitioner having approached this Court in July 2016 and having sought information even under the RTI Act for the first time in 2015, he cannot be permitted to challenge the selection in question, which took place in the month of February 2013.

He also relies upon a judgment of a coordinate Bench, in CWP No. 26980 of 2016, decided on 23.03.2012, in which case the petition was dismissed in limine on grounds of delay, when the petitioner therein, (who had challenged the selection to the post of a Dental Surgeon, questioning the OMR sheet, the question paper in the written examination, as also the answer keys given by the selection body), had approached the Court by way of the aforesaid writ petition in the year 2016, having sought information under the RTI Act for the first time on July 7, 2014, with the advertisement issued on 25.11.2013 in that case.

7. Learned counsel for respondent No.5 has also raised an objection that the petitioner was only a candidate for appointment as an Assistant Professor in Panchayati Raj, with the said respondent having the essential qualification for the post of an Assistant Professor in Panchayati Raj, but the petitioner not having such qualification. Therefore, respondent No.5 had a right of selection over and above the petitioner.

8. In rebuttal, learned counsel for the petitioner has pointed to the fact that even as per the qualification prescribed in the advertisement Annexure P-5, (which was subsequently published as Annexure P-4 in a newspaper), only three posts of Assistant Professors in Panchayati Raj were sought to be filled in by respondent No.3, with the essential qualifications being a Masters degree in Social Sciences/Management/Behavioral Sciences/Home Science, with a good academic record of atleast 55% marks or its equivalent grade. He further submits, while pointing to his certificates (collectively Annexure P-1), that the petitioner is a post-graduate in Rural Development, which is a Social Science, he having scored 63.12% marks in the said examination.

He has also qualified the National Eligibility Test (NET), in the same subject.

9. Having considered the aforesaid contentions on both sides, in the opinion of this Court, though undoubtedly the petitioner has approached this Court after about 3½ years of the selection, however, seeing that he eventually had to approach (by way of an appeal) the State Information Commission to obtain basic information, I do not think it is an inordinate delay, further seeing what has been stated on affidavit before the

Commission by the State Public Information Officer of respondent No. 3, to the effect that, firstly, no marks were awarded in the interview, but yet, it was only the interview that was the criteria for the selection of respondents No.5 to 8. Therefore, I do not see how the said selection is sustainable at all.

On query put to Mr. Balyan as to what was the selection process, he submits that it was only on the basis of performance of the candidates, as assessed by the screening committee in the interview.

10. Again in the opinion of this Court, the posts in question being in public domain, funded through the public exchequer, the whims and fancies of the screening committee cannot be allowed to prevail over a due selection process, and with the respondents admitting that not even marks were awarded in the selection process, with appointments thereafter given to respondents No. 4 to 7, the selection itself cannot be sustained, even though obviously no direction can be given that the petitioner be appointed by way of the said selection process, the process itself being wholly tainted.

11. Consequently, this petition is allowed to the extent that the selection of the person remaining in service, i.e. respondent No. 5, Dr. Wazir Singh, is hereby quashed, (all the other selected candidates either having left the job, and one of them having unfortunately expired). The respondents are directed to re-advertise the post, in which the candidature of even the petitioner would be considered, even with him being over age, along with all other applicants, with a proper criteria to be adopted by the respondents in the selection process, duly disclosed in the advertisement, and a merit list prepared by due procedure upon completion of the process.

The petitioner shall also be entitled to costs of ₹ 20,000/-, to be paid by the members of the selection committee that conducted the selection wholly arbitrarily. The members of the selection committee are further directed to pay costs of ₹25,000/- to the Haryana State Legal Services Authority.

The said directions be carried out within a period of two months from the date of receipt of a certified copy of this order.

October 24, 2017
Poonam (II)

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes
Yes