

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

**Date of decision: 21.02.2017**

**CWP No.16983 of 2016 (O&M)**

Pardeep Kumar

...Petitioner

Vs.

Union of India & others

...Respondents

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

Present: Mr. Manvinder Dalal, Advocate, for the petitioner.

Mr. V.K.Kaushal, Advocate, for the respondents.

**RAJIV NARAIN RAINA, J.**

1. May I say that 'constructive' notice of motion was issued in this case on 22.08.2016 by a Coordinate Bench, when the petitioner was directed to furnish paper-books in the office of Assistant Solicitor General (India) attached to this Court. The respondents were directed by the interim order to verify as to whether this matter is covered by the decision of this Court rendered in CWP No.21150 of 2013 titled 'Kapil Dev Vs. Union of India & others' on 01.08.2016.

2. The disputed matter relates to selection of Constables (GD) held by way of combined All India test for placement in paramilitary forces i.e. BSF, CISF, ITBP, SSB & CRPF. The employment notice was widely advertised in the print media appearing in February, 2011. A written examination was held on 05.06.2011. The result of which was declared in the end of the same year. The list of candidates recommended for appointment included the name of the petitioner in Category – 9 (UR) at Sr.No.3314. The petitioner was not offered appointment. When the reason

was asked, the Staff Selection Commission, Department of Personnel & Training, New Delhi informed the petitioner through memorandum dated 17.04.2012 that during scrutiny of documents, it is found that 'he had signed in capital letters of English alphabets, which is not permissible as per Notice of Examination'. The candidature was cancelled on the ground of "Signature in Capital Letters". The petitioner was notified that no further correspondence in this regard will be entertained. The memorandum was signed by the Under Secretary, Staff Selection Commission and is placed at Annex P-5.

3. Petitioner protested by letter dated 12.05.2012 to the Staff Selection Commission pleading that he had put his signatures in capital letters purely out of ignorance and with no mala fide intentions. The rejection of his candidature for the reasons supplied was not justified especially when he was a poor person, who belongs to a remote and backward village in District Jhajjar, Haryana. He sought reconsideration sympathetically and on humanitarian grounds. There was no response to the representation since further correspondence would not be entertained. But he appears to have done nothing in pressing his claim for the next three years, when on 10.06.2015 he made a reminder representation. Thereafter too he took no steps to avail his legal remedies and pleads that he awakened by a news item in newspaper 'Haryana Jagran' reporting a decision of this Court where a similar claim had been allowed where also candidate had not put his signatures in running letters. Even then he waited for half a year before approaching this Court in the present writ petition.

4. In response to the interim orders dated 22.08.2016 and 15.09.2016, a short affidavit has been filed by way of reply signed by the

Deputy Regional Director, Staff Selection Commission (NWR), Kendriya Sadan, Sector-9, Chandigarh. The affidavit discloses that the recruitment process was completed in the year 2012. It was revealed for the first time in the short affidavit to this Court that the petitioner had submitted his application form in Staff Selection Commission (NR), Delhi. He was not a candidate from Staff Selection Commission (NWR), Chandigarh and therefore no records relating to the recruitment qua the petitioner was available at Chandigarh Office. Therefore, this Court has no territorial jurisdiction over the subject matter and the Court where the jurisdiction lies would be the Delhi High Court. The respondents referred to the terms & conditions of the advertisement. Column-15 in the advertisement is referred to, which reads as follows:

“15. COURTS JURISDICTION

Any dispute in regard to this recruitment will be subject to courts/tribunals having jurisdiction over the City/Town in which the concerned Regional/Sub-Regional Office of the SSC is situated and where the candidate has submitted his/her application.”

5. Rather clearly, the jurisdiction lies where the candidate has submitted his/her application.

6. In order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limits of the Courts jurisdiction.

7. Article 226 of the Constitution of India confers jurisdiction on the High Court to issue directions, orders or writs including five writs mentioned in the provision mandating that every High Court shall have powers throughout the territories in relation to which it exercise jurisdiction,

to issue to any person or authority, including in appropriate cases, any Government, within those territories for enforcement of any of the rights conferred by Part III of the Constitution or for any other purpose. Article 226(2) circumscribes the jurisdiction in relation to the territories within which the case of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

8. It is well settled that the terms and conditions of an advertisement are sacrosanct and binding on the parties. There is sufficient authority in this Court on the point and one may refer to successive Full Benches on different facets of the proposition. These are Amardeep Singh Sahota Vs. State of Punjab, 1993 (4) SCT 328; Sachin Gaur Vs. Punjabi University, Patiala, 1996 (1) SCT 837 and Rahul Prabhakar Vs. Punjab Technical University, Jalandhar, 1997 (3) SCT 526. Our Court is the pioneer in embedding the principle in service law and educational matters.

9. In view of the legal position, I am of the considered opinion that this petition is not maintainable within the jurisdiction of this Court.

10. Furthermore, while keeping in view the provisions of Article 226 of the Constitution of India, a Division Bench of this Court in LPA No.128 of 2011 titled 'M.M.Thapar Vs. Union of India & others' decided on 12.08.2011 held that mere posting of an order or delivery of the same to the petitioner, who lives within the jurisdiction of this Court, would not give rise to a cause of action. The Bench observed as follows:

“5. Having heard the learned counsel for the parties and keeping in view the provisions of Article 226(2) of the Constitution we are of the considered view that merely

posting of order of dismissal and delivery of the same to the petitioner who lives within the jurisdiction of this Court would not give rise to a cause of action. The entire bundle of facts pleaded did not constitute cause of action as all material facts are necessary to be proved before the petitioner could succeed in obtaining a decree in his favour. The significant expression is 'material fact'. The aforesaid question came up for consideration of Hon'ble the Supreme Court in the case of M/s Kusum Ingots and Alloys Ltd. Vs. Union of India & another, AIR 2004 SC 2321(1). After referring to Sections 20(c) and 151 of the Code of Civil Procedure, 1908 and Article 226(2) of the Constitution their Lordships reached the conclusion that the doctrine of forum conveniens may be invoked even in a case where fraction of cause of action might have arisen within the territorial jurisdiction of the Court. The following relevant observations made in para 30 would be sufficient for deciding the controversy which reads as under:

"30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens."

11. Thus, mere posting of a communication of rejection to the residence of the petitioner in a village in District Jhajjar, Haryana, would not make the petition maintainable in this Court.

12. Having reached this conclusion, it would not be necessary to enter debate on the nature of the claim in writ petition and whether it was justified or not. But at least one thing I would like to say is that the learned Single Judge in *Kapil Dev's* case, on the issue of signature conforming to the terms & conditions of the advertisement, requires further debate. I say this

for the reason of the positive language used in the Column requesting the candidates to sign in running hand. The same reads as follows:

“Please sign in running hand. Signature in capital letters of English shall not be accepted and your application shall be summarily rejected. Unsigned application shall also be rejected.”

13. It is trite, that signing in running hand means no more than in cursive writing. Signing in running hand and in capital letters are poles apart. If the paramilitary forces required their prospective Constables to sign in running hand, it should mean that a candidate must obey and resort to no other form of signature writing otherwise it may be seen as an act of disobedience, where the first postulate in a uniform/disciplined force would be to obey lawful commands. Besides, asking candidate to sign in running hand discloses a modicum of education and level of intelligence though already tested at the examination if it was objective and essay type and this is where graphology comes in. The request in the column as I read is a command from uniformed forces and any departure can well be met with cancellation.

14. Still further, one Kapil Dev [whose case was reported in the press, supra] approached this Court without delay in 2013, while the petitioner has approached this Court in August, 2016. The respondents in their short affidavit have annexed an order of the learned Single Judge of this Court passed in CWP No.16900 of 2012 titled 'Bittu Vs. Union of India & others' relating to the same selection and case decided on 10.10.2012. An objection as to jurisdiction was taken before brother Augustine George Masih, J. and he agreed that this Court had no jurisdiction by relying on Eastern Coalfields Ltd. & others Vs. Kalyan Banerjee, 2008 (2) RCR (Civil)

685 and relegated the petitioner therein to the remedy before the Court which has the territorial jurisdiction in respect of the impugned order. There was an interim order passed earlier in that case directing the respondents to keep one post of Constable reserved to await result of the petition. This Court extended the stay till expiry of one week i.e. up to 18.10.2012. There is no such interim order in this case. This petition is brought much delayed in this Court. This judgment had to be dealt with since it is appended with the petition and relief claimed on its principle.

15. In view of lack of territorial jurisdiction, this petition cannot be entertained and is dismissed with liberty to the petitioner to approach the proper Forum. However, this order will not be read as a passport to the future Forum on the question of delay and laches, which needless to say will be examined, in this case, by the Delhi High Court, if approached. Needless to add, this order will not be read as an expression of opinion on the merits of the case and opinion if rendered was on the insistence of the counsel who wished this court to speak its mind. I have, therefore, been compelled to do so lest counsel feel let down, but leave whatever I have said except on jurisdiction and maintainability of the petition open since, after all, I am dismissing the case with the liberty as above.

**21.02.2017**  
Vimal

**[RAJIV NARAIN RAINA]**  
**JUDGE**

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|-----------------------------------|------------|
| <i>Whether speaking/reasoned:</i> | <i>Yes</i> |
| <i>Whether Reportable:</i>        | <i>No</i>  |