

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

**CWP No.1839 of 2015
Date of Decision: 07.02.2017**

Vijay Kumar

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Aman Chaudhary, Advocate,
for the petitioner.

Mr. G.S. Sathi, Advocate,
for respondent Nos.1 to 3.

Mr. Anirudh Gupta, Advocate for
Mr. Jagdeep Jaiswal, Advocate for respondent No.4.

Mr. K.B. Sharma, Advocate,
for respondent No.5.

SURYA KANT J. (ORAL)

The petitioner and respondent No.4 competed for the post of Junior Engineer-II Diesel Fitter against Intermediate Apprentice quota. The selection is made on the basis of combined merit list prepared as per performance in the written test (50 marks) and service record (30 marks). In the written test, the petitioner as well as respondent No.4 both scored 36 marks but as a result of higher marks earned by respondent No.4 in the service record, he was selected.

2. The petitioner challenged the above-stated selection before Central Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal') primarily on the basis of decision of this Court in “**Union of India and others Vs. Raghbir Singh and others**” decided on 18.09.2013 in which the

practice adopted by the Railways to call for 'special reports' of the employees and award marks for such 'special reports', was strongly deprecated.

3. In Raghubir Singh's case, the special reports were called after the declaration of result of the written test which amounted to changing the selection criteria. Hence this Court disapproved such action. It was obvious in that case that with a view to affect the merit of the senior employees at the last stage, that the special reports are called. In the instant case, the special reports were called much before the written test was held and this fact was known to the petitioner as has been held by the Tribunal. Once the petitioner had knowledge that the fourth respondent is likely to be benefited as a result of 'special report' called in his case, the petitioner ought not to have acquiesced, rather challenged the selection process/criteria at the earliest. He instead submitted to the selection process and took a chance for his selection. The judgment of this Court in Raghubir Singh's case is thus distinguishable. Further, there are three employees senior to the petitioner who have got higher marks in the written test and even if his plea is accepted then their, right being senior to the petitioner, cannot be affected behind their back

4. For the reasons afore-stated, we do not find any merit in this writ petition. Dismissed.

(SURYA KANT)
JUDGE

07.02.2017

Bhumika

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: No