

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP-25359-2013

Date of decision : 14.12.2017

Surinder Singh

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Bhupinder Ghai, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana.

Mr. Pardeep Singh Poonia, Advocate
for respondent no.2.

AMOL RATTAN SINGH, J.(ORAL)

The petitioner in this petition is seeking appointment as an Assistant Linesman pursuant to the selection process held for the said post in the year 1997.

He not having been called for an interview after he had secured 70 marks in the written examination, at that stage had filed CWP no.5182 of 2002 which was disposed of by a Division Bench on 02.04.2002, with a direction that the petitioner may file an application under Order 1 Rule 10 CPC in CWP no.17812 of 1997.

He having filed that application in the aforesaid writ petition, learned counsel for the petitioner submits that the said application remained undecided with CWP no.17812 of 1997 having been disposed of on 03.12.2008, with a direction that all those candidates of the reserved

would be included in the select list of general category candidates and thereafter, the select list of candidates of the different reserved category would be prepared.

The petitioner not having been offered appointment even thereafter, is stated to have filed CWP no.10724 of 2009, which was dismissed as withdrawn on July 21, 2009 with liberty to move an application for modification/review of the order dated 3.12.2008 (Annexure P-13) passed by this Court in CWP No. 15558 of 1997, in which the petitioner had moved an application to become party.

Now this petition has been filed in the year 2013, with learned counsel for the petitioner contending that as a matter of fact the respondent Corporation made a mistake in not calling him for an interview, as he and his brother had both applied for the post and the Corporation mistook his brothers' candidature for his, with the name of his brother written against the roll number actually assigned to the petitioner also.

The last part of the aforesaid contention has been refuted by the respondents, with Mr. Punia, learned counsel appearing for the Corporation, submitting that as a matter of fact an interview call was sent out to the petitioner, with the correct roll number and name mentioned but he did not appear for the interview, which learned counsel for the petitioner further refutes, stating that as a matter of fact no such interview call was sent to him and no document has been attached by the respondents with their written statement to prove the aforesaid contention.

Be that as it may, even if it is accepted that there was a mix up with regard to the roll numbers, between the petitioner and his brother, due to which the petitioner was not called for an interview pursuant to the

written examination result having been declared in the year 1997, the petitioners' claim further is that the last selected candidate for the said post having secured 70 marks in all, with the petitioner having scored that many marks in the written examination alone, and therefore if two marks for the experience gained by him are added, i.e. 2 + 70 marks, that would mean that he scored 72 marks, and would therefore be well above those at the end of the select list (who have been appointed as Assistant Linesmen).

That contention, with regard to assignability of 2 marks for experience is not otherwise denied by the respondents; but Mr.Punia submits that till now (till a direction to the contrary has been issued to the Haryana Staff Selection Commission by this Court), the practice of assigning 2 marks for experience was at a stage after the interview and therefore with the petitioner never having appeared for the interview, he was not assigned those 2 marks as was not done in the case of many other persons who may otherwise come within the zone of consideration.

Having considered the aforesaid arguments, though this Court has undoubtedly held in petitions decided recently, that marks for experience being invariable marks, such experience already having been gained before the selection process started, those marks should be added to the written examination for bringing into the zone of consideration such persons as would be eligible for being called for an interview on the basis of such total marks, yet this being a selection of the year 1997, with the petitioner earlier having filed two petitions already, and having sought to be impleaded by moving an application under Order 1 Rule 10 CPC in yet another petition, and this issue of 2 marks being assignable to the marks of the written examination never having been taken earlier by him, in the

opinion of this Court, such a stand cannot be taken in this petition on the touchstone of Order 2 Rule 2 CPC, it virtually being the 4th petition that the petitioner has filed on the same cause of action.

Hence, even though the petitioner may otherwise have a good case on merits, that contention has been raised far too late, for the first time in the year 2013, and therefore cannot be accepted.

Consequently, this petition has to be dismissed.

Ordered as such. No order as to costs.

(AMOL RATTAN SINGH)
JUDGE

December 14, 2017.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No