

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(1) CWP No.18878 of 2017

Sukhbir Singh & othersPetitioners
Versus
State of Haryana & others ...Respondents

(2) CWP No.18916 of 2017

Rajat & othersPetitioners
Versus
Haryana Staff Selection Commission ...Respondent

(3) CWP No.19206 of 2017

Sukhchain Singh & othersPetitioners
Versus
State of Haryana & others ...Respondents

(4) CWP No.19062 of 2017

Mukesh KumarPetitioner
Versus
State of Haryana & others ...Respondents

(5) CWP No.19382 of 2017

Mohan LalPetitioner
Versus
State of Haryana & others ...Respondents

Date of decision: 29.08.2017

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms.Nupur Choudhary, Advocate, for the petitioners
(in CWP-18878-2017).
Mr.Jasbir Mor, Advocate, for the petitioners
(in CWP-18916-2017).
Mr.Kanhiya Soni, Advocate, for the petitioners
(in CWP-19206-2017).
Mr.J.P.Ahlawat, Advocate, for
Mr.N.D.Achint, Advocate, for the petitioner
(in CWP-19062-2017).
Mr.R.S.Budhwar, Advocate, for the petitioner
(in CWP-19382-2017).

Ms.Shruti Jain Goyal, AAG, Haryana.

G.S. SANDHAWALIA, J. (Oral)

This order shall dispose of 5 writ petitions, bearing CWP-18878, 18916, 19206, 19062 & 19382-2017, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-18878-2017 titled *Sukhbir Singh & others Vs. State of Haryana & others*.

Petitioners seek quashing of the list dated 12.08.2016 (Annexure P-5), issued by the respondent-Commission, whereby they have not been called for the interview, for the post of Shift Attendants, for the recruiting agencies of HVPNL/UHBVNL/DHBVL, despite clearing the written examinations and after completion of the verification of documents. Resultantly, a writ of mandamus is sought to issue a fresh list of candidates to be called for interview, as per the notification issued by the Government of Haryana, dated 11.08.2017 (Annexure P-4), whereby candidates equal to 3 times the number of vacancies are to be called for interview. It is, accordingly, prayed that the petitioner may be permitted to appear and participate in the interview process, provisionally, during the pendency of the writ petitions, subject to the final outcome.

As per the advertisement dated 20.02.2016 (Annexure P-1), as many as 2426 posts of Shift Attendants were re-advertised by the respondent-Commission. Petitioners applied for the same and sat in the written examination held on 29.05.2016. A notice dated 30.04.2017 (Annexure P-3) was issued, whereby the list of successful candidates

were notified. The scrutiny of the candidates was to be held from 05.05.2017 to 11.05.2017. A perusal of the said notice would go on to show that the scrutiny was to be done provisionally, to ascertain 2 times the eligible candidates against the advertised posts. Thereafter, the said notification dated 11.08.2017 (Anneuxre P-4) was issued by the State, making an amendment in the Haryana Government, General Administration Department, General Services, Notification dated 28.01.1970. By virtue of the amendment in para 6, in clause (d), for existing sub-clause (iii), the number of candidates to be called for interview were notified. Accordingly, for 11 or more posts, the number of candidates to be called for interview was thrice the number of posts. The said notification reads as under:

“The 11th August, 2017

No. G.S.R. 13/Const./Art.309/2017 – In exercise of the powers conferred by article 309 of the Constitution of India, the Governor of Haryana hereby makes the following amendment in the Haryana Government, General Administration Department, General Services, Notification No. 523-3GS-70/2068, dated the 28th January, 1970, namely:-

Amendment

In the Haryana Government, General Administration Department, General Services, Notification No. 523-3GS-70/2068, dated the 28th January, 1970, in para 6, in clause (d), for existing sub-clause (iii), the following sub-clause shall be substituted, namely:-

“(iii) The number of candidates called for interview shall be as under-

(1) if the number of posts is less than or equal to three, the number of candidates called for interview shall be eight times the number of posts;

(2) if the number of posts is from four to ten (both limits inclusive), the number of candidates called for interview shall be thirty;

(3) for eleven or more posts, the number of candidates called for interview shall be thrice the number of posts:

Provided that all the candidates having the same percentage point as the last candidate shall be called for interview.”

D.S.DHESI,

Chief Secretary to Government, Haryana.”

It is in pursuance of the same, the petitioners have approached this Court, praying for issuance of writ of mandamus, as noticed above, that 3 times the eligible number of candidates should be called for the posts of Shift Attendants whereas the respondents have only called 2 times the number of posts. Reliance has also been placed upon the notice dated 19.08.2017 issued for the posts of Tracers for Irrigation & Water Resources Department, Haryana, qua advertisement No.7/2015 on the basis of a written examination held on 21.05.2017, wherein, for ascertaining 3 times the eligible candidates against the advertised posts, in pursuance of the notification dated 11.08.2017, the respondent-Commission has called candidates for scrutiny of documents from 30.08.2017 to 31.08.2017.

State Counsel has clarified the issue by placing reliance upon the notification dated 18.06.2015, whereby the amendment was made by the Haryana Government in the General Administration Department,

General Services, Notification dated 28.01.1970, wherein, in para 6 of clause (d), the number of candidates called for interview was not to exceed twice the number of vacancies. It is, accordingly, submitted that in view of the fact that the advertisement was issued on 20.02.2016 (Annexure P-1), notification dated 18.06.2015 would govern the same and the subsequent notification dated 11.08.2017 (Annexure P-4) was not to be retrospective in nature and neither there was any mention of any such intent of the Government. It has further rightly been submitted that by virtue of increasing the number of candidates to be called for interview, would also amount to changing the rules of the game, since, admittedly, candidates who had applied were aware that the earlier notification was prevailing on 18.06.2015 and the said persons had also appeared for scrutiny and now the dates of interview are fixed. State Counsel has also further clarified and made a statement, on telephonic instructions from the Secretary, Haryana Selection Commission, that the notice dated 19.08.2017, pertaining to the posts of Tracers for Irrigation & Water Resources Department, Haryana against advertisement No.7/2015, is going to be modified in accordance with the prevailing notification, to bring it at par with the facts of the present case and candidates only to the extent of twice the number of vacancies are to be called, as per notification dated 18.06.2015.

The argument which has been raised by counsels for the petitioners, that in certain set of advertisement, 3 times the number of vacancies were to be called whereas the petitioners have been

discriminated, thus, does not survive any more, in view of the statement made by the Learned State Counsel.

Accordingly, keeping in view the above and the fact that the notification dated 11.08.2017 (Annexure P-4) was issued, is at a subsequent point of time, the petitioners have no such vested right to be called for the scrutiny of documents and interview.

Resultantly, the present writ petitions, being devoid of any merit, are, hereby, dismissed. It is, however, made clear that this Court has only dealt with the limited issue regarding the number of candidates to be called and not on the merits of the case, as to the marks obtained by the petitioners and whether they have wrongly been not called for interview inspite of having allegedly secured higher marks than the cut-off.

29.08.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *Yes*