

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

CWP No. 26996 of 2014 (O&M)
Date of decision: 24.4.2017

Rashmi Sagar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. The instant writ has been filed under Article 226 of the Constitution of India seeking to quash the merit list dated 21.11.2014 prepared by respondent No.2 regarding recruitment of Veterinary Officers.

2. In brief, the facts are that respondent No.2 issued an advertisement on 23.1.2014 inviting applications for recruitment to 115 posts of Veterinary Officers in the Department of Animal Husbandry Fisheries and Dairy Development in the State of Punjab. Out of these 115 posts, 51 posts were meant for general category. As per advertisement, the essential qualifications was Bachelor Degree in Veterinary Science and Animal Husbandry and the persons possessing qualification of Ph.D or M.V. Science in any branch of Animal Husbandry and Veterinary Science would be given preference. The petitioner having the necessary

qualifications applied for appointment to the post of Veterinary Officer. The petitioner obtained 204.40 marks and was ranked at serial No. 76. Aggrieved that there was no specific criteria provided as to how preference would be given to those persons who had a higher qualifications, the instant writ petition has been filed.

3. Mr. Surinder Garg, learned counsel appearing on behalf of the petitioner, contends that as per the advertisement issued, it was clearly mentioned that a person possessing qualification of Ph.D or M.V. Science would be given preference, however, the advertisement is silent as to what criteria would be adopted in giving of the said preference. It is contended that the petitioner, who had a Master in Veterinary Science would be entitled to get the benefit of preference, which has been denied to the petitioner.

4. Per contra, Mr. Avinit Avasthi, learned Assistant Advocate General, Punjab, appearing on behalf of the respondents, submits that the petitioner having participated in the selection process is estopped from challenging the criteria that has been specified in the advertisement. Reliance in this regard has been placed upon the judgments rendered in **Ramsh Chandra Shah and others Vs. Anil Joshi and others (2013) 11 Supreme Court Cases 309** and **Madan Lal and others Versus State of J&K and others AIR 1995 SC 1088**.

5. I have heard learned counsel for the parties and have also perused the record of the case.

6. Admittedly, an advertisement was issued by the Punjab Public Service Commission inviting applications from the eligible candidates for

recruitment of 115 posts of Veterinary Officers. As per the said advertisement, 51 posts were reserved for the general category. The essential qualifications were prescribed as under:-

“Essential qualifications:-

- i) Bachelor Degree in Veterinary Science and Animal Husbandry from any recognized University or Institution. Provided that the persons possessing qualification of Ph.D. or M.V. Sc. in any of the Branches of Animal Husbandry and Veterinary Science shall be given preference.*
- ii) Punjabi of Matric or its equivalent standard.
(Relaxable for Sikh Migrants to the extent that they will have to acquire such qualification within two years after joining the service failing which their services shall liable to be terminated).*

Furthermore, it was stipulated that the Commission shall held a competitive examination, details of which were to be hosted on the Commission's website. As per the public notice issued details of the competitive examination clearly mentioned that the examination shall consist of 100 objective types multiple choice questions of 300 marks; all questions will carry equal marks; there will be no negative marking; the marks obtained in the written competitive examination shall be counted in the final merit; the minimum qualifying marks shall be 35% for the general category candidates; and viva-voce shall carry 40 marks and the final result shall be prepared on the basis of the grand total of the marks obtained by the candidates in the written competitive examination and viva-voce. The petitioner having participated in the said examination obtained 204.40 marks

with 177 marks in the written examination and 27.40 marks in the viva-voce. Being unsuccessful in the selection process, the instant writ petition has been filed.

7. The law in this regard is well settled that any person who consciously takes part in the selection process cannot thereafter turn around and question the method of selection and its outcome. Having participated in the selection process with full knowledge with regard to the procedure being followed, cannot turn around and question the methodology adopted for that selection. At the very outset, in the public notice details of the competitive examination were made aware to all the candidates. It was clearly specified therein that a single paper of 100 questions of 3 marks each was to be undertaken by the candidate and minimum 35% marks were to be obtained by the general category candidates. The viva-voce was to be of 40 marks. The petitioner obtained 177 marks in the written examination and 27.40 in the viva-voce with total 240.40 marks. The contentions raised that preference has to be given to candidates having Ph. D or M.V. Sc. Degree is an argument which is noted to be rejected. The wording in the advertisement for educational qualification is not happily worded. The question of giving preference would only arise in case there was one post left with more than one candidates having obtained the same marks. In that eventuality, a person possessing additional qualification of Ph.D or M.V. Science was to be given preference. If preference is to be given only on educational qualification there would have been no necessity for holding a competitive examination which was to be the basis of selecting a candidate.

8. However, in the instant case, the petitioner was placed at serial

No. 76 whereas 51 candidates were to be appointed. Therefore, she would not come even in the zone of consideration for appointment. The public notice issued clearly specified that the marks would be on the basis of competitive examination to be held. Moreover, in view of the well settled law that after a candidate has participated in the selection process, it is not open for him to challenge the terms of the advertisement or the criteria, this Court is not inclined to interfere in the writ petition, being devoid of merit.

9. Consequently, the writ petition is dismissed.

24.4.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No