

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5101-2014 (O&M)

Date of Decision:-05.09.2017.

Madhu Mohini

.....Petitioner

Versus

Staff Selection Commission and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Krishan Singh, Advocate for the petitioner.

Mr. Indresh Goel, Advocate for respondent Nos.1 & 2.

Mr. Manav Bajaj, Advocate and

Mr. Sumeet Goel, Advocate for respondent Nos.3 & 4.

P.B. BAJANTHRI, J. (Oral)

The contesting respondents are served unrepresented.

In the instant writ petition, petitioner has challenged the validity of appointment on the post of AG-III (Technical) and further quashing the order dated 16.12.2013 (Annexure P-12) by which her claim for the post of AG-III (Technical) post has been declined on the score that she failed to fill up the item No.14.1 to Annexure -I (Form).

Petitioner is a candidate for recruitment to the post of AG-III (Technical). Method of recruitment for various posts like AG-III General, Technical, Accounts, Depot, AG-II (Hindi) and Typist (Hindi) prescribe different qualification. Since the petitioner had requisite qualification with reference to the post of AG-III (Technical), she had applied for the post. Petitioner is stated to have secured 155.25 marks whereas the last candidate under AG-III (Technical) post has secured 147.50 marks. Even though

petitioner is more merited than the last candidate for the post of AG-III

(Technical), her name has not been considered on the score that she failed to fill the item No.14.1 of Annexure -I (Form).

Learned counsel for the petitioner submitted that since petitioner had applied only for the post of AG-III (Technical), question of filling up of column 14.1 i.e. "Preference for Posts" do not arise. In view of columns 14.1, 14.2 and 14.3 which distinguish the candidates applying for concerned posts like AG-III (Accounts), AG-III (Technical). Therefore, she has filled up Column Nos. 14.2 & 14.3 to state that she did apply only to AG-III (Technical). In view of columns 14.2 and 14.3, it is redundant to fill up column 14.1 for the reasons that petitioner had applied only for AG-III (Technical). Column 14.1 could be filled up by a candidate who has applied for more than one post so as to show the order of preference for posts. Thus, if a candidate is appearing for a particular post (single post), in that event question of filling up of column 14.1 i.e. "Preference for Posts" do not arise. Therefore, respondents' contention that petitioner has failed to fill up column 14.1, consequently she is not entitled to consideration for selection and appointment to the post of AG-III (Technical) is arbitrary and illegal.

Per contra, learned counsel for the respondents while resisting the petitioner's claim pointed out that as and when recruiting authority issued a prescribed form, it was bounden duty of the candidates to fill up requisite columns with reference to the prescribed form. It was also pointed out that in the prescribed Form Annexure-I, it reads that *"Please read instructions in the notice of the Examination/Annexure carefully. Use Blue or Black ball pen to write in the box"*. Therefore, leaving column 14.1 as blank by the petitioner lead to rejection of her candidature for the post of AG-III (Technical). It was also submitted that unless and until preference for post is filled up, petitioner cannot be considered since the application would be scrutinized by the computer. Therefore, the petitioner has not made out a case. Learned counsel

for the respondents relied on two decisions namely, (i) Karnataka Public Service Commission and others Vs. B.M. Vijaya Shankar and others reported in *(1992) 2 SCC 206* decided on 14.2.1992 and (ii) *CWP No.18360 of 2016* (Surjit Singh Vs. Union of India and others) decided on 28.2.2017 to support the contention that candidates were abide by instructions issued by the selecting authority.

Heard learned counsel for the parties.

The respondents have notified applications for 6 posts, namely, AG-III (General), AG-III (Accounts), AG-III (Technical), AG-III (Depot), AG-II Hindi and Typist (Hindi) Coded as A, B, C, D, E & F. Undisputedly, petitioner has applied for the post of AG-III (Technical) only. Annexure-I which is the Form issued to each of the candidates to fill up various particulars, the concerned columns are 14 to 14.3. Petitioner filled up form. Extract of it reads as under:-

14. Preference for Zones	14.1 Preference for posts	14.2 Are you applying for the post of AG III (Accounts).	14.3 Are you applying for the post of AG III Technical.
1. 2. 3. 4. 5.	1. 2. 3. 4. 5. 6.		
C B D A E		Write 1- Yes, 2-No X	Write 1-yes, 2- No. 1
Write 'A' for East, 'B' for West, 'C' for North, 'D' for South and 'E' for North East zones.	See Note IV of para A3 of the Notice	Do you possess qualification for AG III (Accounts). Write 1-Yes, 2-No. X	Do you possess qualification for AG III (Technical) Write 1-Yes, 2-No. 1

Question for consideration is whether a candidate who had applied for isolated post like the petitioner herein is required to fill up column No.14.1 or not? Title of the column 14.1 reads as “*Preference for Posts*”. This column is required to be filled up by a candidate who has applied for more than one post. In other words, question of giving preference for post would arise only if a candidate had applied for more than one post. If a candidate had applied only for one post, in that event, question of filling up of column 14.1 do not arise for the reasons that columns 14.2 and 14.3 provide for whether candidate had applied for a particular post of AG-III (Accounts) or AG-III

(Technical) for which petitioner has filled up 14.3 since she had applied against

the post of AG-III (Technical). Therefore, rejection of the petitioner's candidature for the post of AG-III (Technical) is arbitrary and illegal. Insofar as reliance on the Supreme Court decision as well as decision of this Court, the same are not applicable for the reasons that having regard to the relevant column in Form Annexure-I, namely, 14.1 read with 14.2 and 14.3 are required to be interpreted. Column 14.1 reads as "*Preference for Posts*". It is for more than one post. Petitioner had applied only for the isolated post of AG-III (Technical). Therefore furnishing order of preference posts would be impracticable. Hence, the respondent's contention to the extent that petitioner failed to fill up 14.1 column would not come in the way of selection and appointment of the petitioner. Accordingly, Annexure P-12 dated 16.12.2013 are hereby set aside. Respondent Nos.3 and 4 are hereby directed to consider petitioner's candidature for the post of AG-III (Technical) with reference to the marks secured by her afresh within a period of 2 months from today. The petitioner is entitled to notional service benefits like seniority and pay fixation etc. from the date of contesting respondents were appointed. Respondents may create supernumerary post to accommodate last selected and appointed candidate to the post of AG-III (Technical).

Accordingly, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

September 05, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.