

CWP No. 27674 of 2017

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

CWP No. 27674 of 2017

Date of Decision: 08.12.2017

Vidur Rathi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Harmandeep Singh Saini, Advocate,
for the petitioner.

Mr. R.K. Doon, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

In this petition, the petitioner has challenged the notice published by the respondent Haryana Staff Selection Commission, Annexure P-4, by which candidates equal to twice the number of vacancies advertised have been called for an interview, based on the result of the written examination, conducted pursuant to Advertisement no. 11 of 2015 having been issued, calling for applications of candidate seeking to be appointed as Taxation Inspectors in the Excise and Taxation Department of the Government of Haryana.

As already noticed in the order dated 06.12.2017, learned counsel for the petitioner had submitted that in an advertisement issued in the year 2008, by the respondent-Commission itself, calling for applications for appointment of Assistant Engineers in the reserved category, it had been stated as follows:-

“However, as per law laid down by the Hon'ble Apex Court, candidates equal to three times of the number of vacancies will be called for interview based on their performance in the

written test. The total marks obtained in the written test and viva-voce will determine the merit of the candidates in their respective categories.”

Hence, his contention had been that now calling candidates only twice the number of posts advertised, was contrary to the directions issued by the Supreme Court, referred to in the aforesaid advertisement of 2008, and inconsistent with the stand of the Commission itself.

This Court while issuing notice had noticed that the issue of calling candidates equal to twice the number of posts advertised, had already been subject matter of challenge in some writ petitions in the last few months, with the petitioners in those cases essentially relying on a notification issued on 11.08.2017 by the respondent-Government, by which it was stipulated that candidates equal to thrice the number of vacancies advertised be called for interviews in any selection process.

However, in that litigation it had been held by this Court, in its judgment dated 29.08.2017 passed in CWP No. 18878 of 2017 and connected matters, that since the notification of August 2017 came after the advertisements issued in those cases, it cannot be held to apply to ongoing selection processes.

The judgment is stated to have become final, with the appeal filed by the petitioners in those writ petitions having been dismissed by a Division Bench, vide an order dated 11.09.2017 passed in LPA No. 1674 of 2017.

In the present case, learned counsel for the petitioner however further submits that as per the advertisement in question in the present case, Annexure P-1, dated 01.12.2015, there is nothing stated that candidates only twice the number of vacancies advertised would be called for an interview and therefore, the case of the present petitioner would be distinguishable from those in which the petitions were dismissed, as (according to learned counsel for the petitioner), in those advertisements it was specified that candidates twice the number of vacancies advertised would be called for interviews, upon the result of the written examination being declared.

He further points to the announcement Annexure P-3, by which the result of the written examination was announced, with a notice issued to the successful candidates whose roll numbers are given in the announcement, to come for scrutiny of documents, the number of candidates called for such scrutiny being 5.5 times the number of posts advertised (as per learned counsel).

He therefore submits that thereafter restricting the number of candidates called for interviews to twice the number of vacancies advertised, is wholly an arbitrary decision on the part of the respondent-Commission.

He also refers to a judgment of the Supreme Court in **State of Punjab and others** vs. **Manjit Singh and others** 2003 (4) SCT 310, wherein their Lordships had held that fixation of a cut off mark in a screening test, where the criteria for selection otherwise was not a written test but simply interviews, would be an arbitrary exercise, and generally candidates 03 to 05 times the number of posts advertised should be called, regardless of the minimum marks fixed in any screening test.

In response, learned counsel for the State has filed a short reply on behalf of the respondent-Commission, essentially stating to the effect that as per an amendment made vide a notification dated 18.06.2015 (a copy of which has been annexed as Annexure R-2/2 with the reply), an earlier notification dated 28.01.1970 had been amended (issued by the General Administration Department of the General Services Department of the State), whereby for clause (a) in paragraph 6 of the earlier notification of 1970, the following clause (d) has been substituted:-

“d) methods of recruitment and the principles to be followed in making appointment to the post of Teacher, Educational Supervisor and Teacher Educator of Group B and C of School Education Department, Haryana and non-gazetted Group C post under the State Government.

The Commission shall make selection and recommendation of the names of candidates to a department or an office on the basis of a written examination followed by interview. The weightage of interview

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marks shall be 12% of the total marks. The written examination shall be of 88% weightage of the total marks and it shall be divided into two portions comprising:-

- (i) 75% for General awareness, Reasoning, Maths, Sciences, English, Hindi etc; and*
- (ii) 25% for History, Current Affairs, Literature, Geography, Civics, Environment, Culture etc. of Haryana.*

Further the number of candidates called for interview shall not exceed twice the number of vacancies.

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

(Emphasis applied by this Court).

Thus, he submits that, firstly, the written examination conducted in the case of the present petitioner is not a screening test but an examination as part of a regular selection process and therefore the ratio of the judgment of the Supreme Court, (to the effect that where a screening test is held fixing of cut off marks is arbitrary without calling for an interview candidates equal to 3 to 5 times, the number of posts advertised), would not be dictum applicable to the selection process in question.

He further draws attention to the fact that vide the aforesaid notification, specifically it has been stipulated that the number of candidates to be called for an interview shall not exceed twice the number of vacancies advertised.

That being so, having considered the arguments on both sides, with the statutory notification by way of sub-ordinate legislation not under challenge, and a co-ordinate Bench already having taken a view that the notification dated 11.08.2017, providing for calling candidates equal to thrice number of posts advertised will only apply to advertisements issued on or after the said date, i.e. 11.08.2017, and that judgment having become final as regards this Court at least, with no further challenge shown thereto before the Supreme Court, I see no ground to entertain this petition.

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Learned counsel for the petitioner has now, on a different aspect, pointed out that vide a judgment of a co-ordinate Bench dated 22.05.2014, passed in CWP No. 2201 of 2014 and connected petitions, a general direction had been issued that the Haryana Public Service Commission, the Haryana Staff Selection Commission and the Haryana School Teachers Selection Board, shall ensure compliance of Section 4 of the Right to Information Act, 2005, which mandates a public authority to maintain records in computerized form on the website of the selection body concerned.

Thus, it was directed that the entire result of any selection process would be displayed on the website of the selection body (as opposed to only the result of the selected candidates).

Consequently, while dismissing this writ petition, it is directed that the respondent-Commission and other selection bodies in Haryana, will immediately ensure compliance of the aforesaid orders of this Court dated 22.05.2014, in all ongoing selection processes, as also all selection processes in which results have already been declared but are subject matter of challenge in any petition whatsoever, with the needful to be done within a period of 15 days from today.

If upon display of the aforesaid results, the petitioner in the present petition has a grievance with regard to the result itself, he would be at liberty to take appropriate measures including by approaching this Court by way of a separate writ petition.

With the aforesaid directions and observations, this petition is dismissed.

December 08, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes