

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 724 of 2017 (O&M)

Date of decision: 24.04.2017

Rinku

... Petitioner

versus

State of Haryana and others

.... Respondents

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

Present: Mr. Vivek Khatri, Advocate for the petitioner.
Mr. Karan Sharma, AAG Haryana.
Mr. Kanwal Goyal, Advocate for respondent No.2.
Mr. Amit Rao, Advocate for respondent No.4.

P. B. BAJANTHRI, J. (ORAL)

The civil writ petition has been filed under Article 226/227 of the Constitution of India seeking quashing the result dated 02.12.2016 (Annexure-P9) issued by respondent No.2.

Both the petitioner and respondent No.4 are candidates for the post of Assistant Professor (College Cadre) for the subject of Defence Studies pursuant advertisement dated 16.02.2016. Both the petitioner and respondent No.4 submitted their applications under EBP General Category, but, only one post was reserved under the economic backward in General Category. Both of them have cleared their competitive examination held by Selecting Authority. Consequently, they were called for the interview.

Learned counsel for the petitioner submitted that the

petitioner has secured 58 whereas 4th respondent who has secured 58.44 marks. He further submitted that 4th respondent's +2 marks has been taken into consideration with reference to equivalent percentage=GPA x 10. Thus holding that the 4th respondent has secured 60 marks in +2, consequently 4th respondent has received 5 marks with reference to the criteria laid down for assessing relative merit of the candidates to the post of Assistant Professor (College Cadres) Defence Studies. After the marks are reduced from 5 to that of 3 marks with reference to +2 certificate and so also 3 marks for consistency is reduced to zero, the petitioner is more merited than the 4th respondent. It was submitted that the Selecting Authority has proceeded to award 5 marks for +2 as if the petitioner has secured 60% marks which is not correct having regard to the absolute grading from SUPW and environmental education table shows that for B Grade-II division of marks 50% to below 60%. Therefore, the petitioner has not secured 60%. Further, it was submitted that if the marks awarded in +2 has been taken into consideration, the 4th respondent has secured 283 marks over 500. It would be around 56.6% and not 60% as claimed by the 4th respondent as well as stated by the Selecting Authority. Therefore, the 4th respondent's selection and appointment is liable to be set aside.

Learned counsel for the Selecting Authority submitted that they have taken note of the equivalent percentage=GPA x 10 in the +2 marks card and proportionate marks had been awarded while assessing

the petitioner's marks for +2, to consistency marks had been awarded. Thus, there is no infirmity in the calculation and award of marks to +2 and consistency 5 + 3 marks. The same argument is advanced by the contesting respondent, counsel for the 4th respondent.

Heard learned counsel for the parties and have perused the file carefully.

The crux of the matter is whether the calculation of +2 marks of 4th respondent by the Selecting Authority to the extent of 60% and above is correct or not? Undisputedly, the 4th respondent had secured 283 marks in the +2 with a grade of 6.00 if the same is calculated with reference to equivalent percentage = GPA x 10, whether it would be 60% and above or below 60% so as to award 5 marks to the 4th respondent ? Further, consistency marks are required to be awarded 3 marks or not ? From the perusal of +2 certificate, it is evident that it contains both the marks as well as grading. The 4th respondent secured 280 marks and grading is 6.00. If the 283 marks is to be calculated with reference to 500 marks, the percentage will be 56.6% and not 60% so as to award 5% to the 4th respondent. Consequently, 4th respondent is not entitled for consistency marks of 3. Even method of calculation on the reverse side of the certificate is taken into consideration, 4th respondent would not get 60%. Therefore, the Selecting Authority has committed an error in calculating the percentage as well as award of marks for +2 for consistency. Thus, 4th respondent's selection is liable to be set aside

on the ground that 4th respondent would not get 15 marks if the same is recalculated insofar as +2 from 5 marks to 3 marks and for consistency from two to zero. In view of these facts and circumstances of the case, selection of 4th respondent for the post of Assistant Professor (College Cadre) Defence Studies is hereby set aside. The concerned selecting and appointing authority are hereby directed to consider the petitioner's claim and issue necessary appointment order within a period of three months from today.

The civil writ petition stands allowed.

(P. B. BAJANTHRI)
JUDGE

24.04.2017

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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No