

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 12119 of 2014

Date of Decision: May 17, 2018

Deepak Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Rahul Sharma, Advocate
for the petitioner

Mr. Hitesh Pandit, Addl. A.G. Haryana

Mr. Ramesh Hooda, Advocate
for respondents No. 2 and 9

Dr. S.K. Redhu, Advocate
for respondents No. 3 and 4

Mr. Aditya Yadav, Advocate
for respondents No. 5 and 6

Mr. Mikhail Kad, Advocate for
Mr. Ashe Kumar Goyal, Advocate
for respondent No. 7

Sudhir Mittal, J. (Oral)

The petitioner was a candidate for the post of Assistant Professor in Geography. Two posts were advertised by respondent No. 5 – College, pursuant to which 50 candidates applied and 27 candidates were shortlisted for interview. The petitioner and respondents No. 3 and 4 were amongst the shortlisted candidates. The interview was held on 02.09.2013 and respondents No. 3 and 4 were selected. Their selection is under challenge in the present writ petition.

2. Replies have been filed on behalf of respondents No. 1, 3, 4 and 7.

3. Learned counsel for the petitioner submits that result of the selection is vitiated on the ground of bias. Respondent No. 8 was the Guide of respondent No.

3 (one of the selected candidates) for his Ph.D and also co-authored, the research

papers presented by him for evaluation in the interview. Thus, bias is apparent. The bias is further substantiated by the fact that respondent No. 8 awarded eighteen marks to respondent No. 3 in the interview whereas she has awarded only one mark to the petitioner. In another interview, the said respondent No. 8 had awarded eight marks to the petitioner. Apart from this, respondent No. 3 has been granted disproportionate marks, which is evident from the fact that as per the list of publications given with the application, a total of four papers were published by him, three out of which are at international level and one at national level. According to the instructions for evaluation of the research papers/publications, an applicant was entitled to be awarded two marks for international publication and one mark for national publication. Thus, at the most, respondent No. 3 could have been awarded seven marks, whereas he has been awarded ten marks. This reinforced the apprehension of bias in the mind of the petitioner. It is further contended that respondent No. 8 influenced the other members of the selection panel and, thus, the result prepared by such selection panel is vitiated.

4. Learned counsel appearing for respondents. No. 3 and 4 submits that infact respondent No. 3 had six publications to his credit. Two papers were published after the date of application and, hence, could not be included in the application. However, they were published before the date of the interview and produced at the time of the interview and, accordingly, he has been awarded marks. Thus, there is no error in the marks awarded to respondent No. 3 for the publications/research papers. Moreover, the petitioner does not possess the minimum eligibility criteria prescribed for the post of Assistant Professor as he is not NET/SLET qualified. Thus, he is not entitled to maintain this writ petition.

5. Learned counsel for respondents No. 3 and 4 has, however, not raised any argument regarding allegation of bias.

6. I will first examine the eligibility of the petitioner. Although this argument has been raised by learned counsel for the respondents No. 3 and 4 but he has not been able to substantiate the same. It is not denied that the petitioner is Ph.D qualified and as per the UGC guidelines such a candidate is exempted from the qualification of NET/SLET. Moreover, the petitioner has been placed in the waiting list and the selection committee has not found him ineligible. Had that been the case, he would not have been called for the interview at the first instance. This argument is, thus, rejected.

7. Now, I shall examine the question of bias. It is not disputed that respondent No. 8 is co-author of research papers with respondent No. 3. It is also not denied that respondent No. 8 was his guide for Ph.D. Specific allegations have been made against her in the writ petition but she has chosen not to counter the same by filing a reply. Propriety demanded that respondent No. 8 should have recused herself from the selection process since her protege was a candidate. Thus, the allegation of bias is not unfounded. Even something which raises an apprehension of bias in the mind of applicants competing for a post, is sufficient to nullify a selection process. Under the circumstances, it can not be held that the selection process was fair and proper.

8. In view of the above, the writ petition is allowed and the selection to the post of Assistant Professor in Geography in question in the present writ petition is quashed. The respondents are at liberty to initiate a fresh selection process.

May 17, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No