

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23917-2012 (O&M)
Date of Decision:- 21.11. 2018.

Baldev Raj

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Argued by:- Mr. Satbir Gill, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Arvind Seth, Advocate for respondent No.2.

Mr. R.K. Malik, Senior Advocate with
Mr. S.K. Rana, Advocate for respondent No.3.

ARUN MONGA, J.

1.) The present petition has been filed for issuance of a writ in the nature of certiorari to quash the impugned Selection/Appointment of respondent No.3 vide Annexure P-1 on the post of Assistant Director Youth Welfare, Chaudhary Devi Lal University, Sirsa.

2.) Briefly, factual background first. Respondent No. 2, Chaudhary Devi Lal University, Sirsa, advertised a post of Asst. Director Youth Welfare in the month of February, 2011 (Annexure P-1/A). The petitioner fulfilling the required eligibility criteria, applied for the post on 22.07.2011 (Annexure P-2). The additional pre requisite qualification, besides the academics, was prescribed as 5 years experience of organizing Youth Leadership Training Camp and other related activities.

3.) Pursuant to his application, the petitioner was called for

interview vide a letter dated 12.12.2011 (Annexure P-3). His interview was conducted on 28.12.2011. The result of the interview of 35 candidates was declared vide the impugned Minutes of Meeting (Annexure P-1). The petitioner was not selected, hence the petition before this Court.

4.) The petitioner states that being National Youth Award winner (Annexure P-8), which was presented to him by the President of India in the year 2006, he was the most qualified candidate for the post. By virtue of this award and also various other awards/appreciation certificates having greater work experience in the desired field of Youth Welfare, the petitioner be given appointment letter for the abovesaid post. The appointment of Respondent No.3 stands to be vitiated, as he is much less meritorious, contends the petitioner.

5.) The petitioner also sought information under RTI Act which was supplied to him vide reply dated 08.05.2012 (Annexure P-48). He states that the RTI information supports the contention of the petitioner as it shows that the respondents did not follow the proper criteria to fill the advertised post.

6.) Respondent No. 2 on the other hand has, through its reply, stated that due procedure was followed in making the selections to the advertised posts. A Selection Committee comprising of relevant subject experts was constituted as per rules and proper procedure was followed while considering the eligible candidates for selection. The constitution of the Selection Committee has not been challenged. The Selection Committee, after evaluating documents filed by the candidates and judging their capabilities, made final selection through interview mode and gave equal and fair opportunity to all candidates. After considering all the candidates,

36 persons were found to be eligible for appointment. Respondent No. 3 was adjudged as the most qualified candidate after scrutinizing all his documents and considering his experience certificates.

7.) Respondent No. 2 contends that the petitioner had duly participated in the selection procedure and has not pleaded any malice in the conduct of the Selection Committee and hence, has no locus standi to challenge the selection process. The RTI application relied on by the petitioner was filed by another person, namely Sh. Kartar Singh. The petitioner has submitted wrong and incorrect facts. The representations made by the petitioner regarding the selection were also promptly replied to (Annexure R-2/9 (Colly) and Annexure R-2/10 (Colly)).

8.) Respondent No. 3 has contended that he was the more meritorious candidate in comparison to the petitioner and averments made by the petitioner are wrong. He relies on all his degrees and certificates which support his claim of being the more meritorious candidate. On the basis of these, the Screening Committee had shortlisted him and recommended him to the Selection Committee, comprising of subject experts, which finally selected him. He further contends that the petitioner has not alleged any malafide in the conduct of the Selection Committee or any member thereof.

9.) I have heard the Ld. Counsels representing respective parties and have gone through the pleadings

10.) Learned senior counsel for respondent No.3 has argued that where selection is based only on interview alone, it is not required by the selection committee to lay down any specific criteria or the marks in an interview are not required to be given based on any specific criteria. Qua the

said proposition, learned senior counsel has relied upon a Division Bench judgment of this Court rendered in LPA No.1120 of 2010 titled as “Dr. Munish Garg v. Dr. Suresh Kumar and others”, relevant whereof is extracted herein below :

“ Learned Senior counsel for the appellant has relied upon the decision of the learned Single Judge in Richa Madan v. AICTE being CWP No.10742 of 2010 decided on 22.07.2010 in which a similar issue of selection for the post of Lecturer of Pharmaceutical Sciences in the same University i.e MDU, Rohtak was considered. In that case, no criteria was laid down for making selection. The selection was based on interview alone. The learned Single Judge held that in the circumstances it was not required that for interview also the Selection Committee should lay down any specific criteria or that the marks for interview should be divided under various heads. It was stated that the High Court exercising jurisdiction under Article 226 of the Constitution does not sit as a Court of Appeal over selection made by expert bodies for posts that require high expertise. Consequently, the challenge to the selection in dispute of laid down criteria was repelled in that case.

Learned Senior counsel at the first hearing of this appeal had relied upon a decision of the Hon'ble Supreme Court in the case of Kiran Gupta and others v. State of U.P and others 2000 (4) RSJ 438 to contend that where no separate marks are allocated for each head/item or parameter the award of marks in lumpsum in an interview based selection could not be faulted and that there would be no illegality in the procedure of overall evaluation of candidates without fixing marks for each of the items adopted by the Commission. Therefore, such selection should not be held to be arbitrary.

It follows that even where criteria has been broken down in several parameters even then it is not necessary to award

marks under each individual head and the total impact of the interview of candidates inter se would be commensurate with the high standards of evaluation expected especially when selection has been left in the hands of experts. We have no doubt that 13 column parameters were devised by the petitioner himself which was categorically responded to by the University by saying that there was no such criteria adopted by it and that selection has been made in accordance with Statute 22 of the MDU Act. We are not unmindful of the fact that no malafides have been alleged in the selection”.

11.) In present case also, no malafides have been alleged in the selection, as was in Dr. Munish Garg's case, *ibid*. I am inclined to accept the argument canvassed by the learned senior counsel for respondent No.3. I am in agreement with the submissions that the selection of respondent No.3 deserves to be upheld in view of law laid down in Kiran Gupta's case as also in Richa Madan's case, both of which have been cited in the Dr. Munish Garg's case *supra*. This Court cannot and should not sit as Court of appeal over selection made by experts for a post that requires special expertise.

12.) Even otherwise, a perusal of the advertisement for the post in question shows that the essential qualifications for the post of Assistant Director Youth Welfare was, *'At least 2nd Class Masters Degree with at least five years experience of organizing Youth Leadership Training Camp, Youth Festival and other related activities.'* In light of this, the excessive reliance of the petitioner on his National Youth Award is not relevant as it is not an essential qualification per the advertisement.

13.) It is also noteworthy, that the petitioner has neither challenged the constitution of the Selection Committee as per rules nor any criteria

adopted by the Selection Committee is under challenge. The petitioner was not even selected in the 'Waiting List'. This shows that there were other more qualified candidates in the list of people who were shortlisted for the interview.

14.) The present petition is, therefore, dismissed in view of my foregoing discussion and reasons assigned therein.

(ARUN MONGA)
JUDGE

November 21, 2018
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Whether speaking/reasoned:-
Whether Reportable:-

Yes / No
Yes / No.