

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Date of Decision: June 20, 2018

1. CWP No.15555 of 2018 (O&M)

Nishant Garg & another

...Petitioners

Versus

State of Punjab & another

...Respondents

2. CWP No.15607 of 2018 (O&M)

Paramjit Singh Chahal & others

...Petitioners

Versus

State of Punjab & others

...Respondents

**CORAM: HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Madhur Goyal, Advocate,  
for the petitioners in CWP No.15555 of 2018.

Mr.Vikas Arora, Advocate,  
for the petitioners in CWP No.15607 of 2018

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**AMIT RAWAL, J.**

This order of mine shall dispose of two Civil Writ Petitions bearing No.15555 and 15607 of 2018 as the common questions of law and fact are involved. The facts are being taken from CWP No.15555 of 2018.

The grievance of the petitioners is that the State of Punjab, i.e., Department of Local Government through Selection Committee, caused an advertisement for filling up the posts of Assistant Corporation Engineer (Civil), Assistant Municipal Engineer (Civil) and Sub Divisional Engineer (Civil) on 1.7.2015 (Annexure P-2). In pursuance to the aforementioned

advertisement, 682 posts were intended to be filled in Municipal Corporation, Municipal Council, Nagar Panchayats, Improvement Trust and Punjab Water Supply Sewerage Board in the State of Punjab. Owing to the widespread cheating, the aforementioned examination was cancelled by the State and the same was notified vide public notice (Annexure P-3) by the Punjab Urban Planning and Development Authority in the Newspaper Tribune on 11.7.2015 and various other Newspapers.

It has been alleged that the State of Punjab is contemplating to fill up the same very posts by causing advertisement, but during the interregnum, certain persons including the petitioners have become eligible for consideration for appointment to the post, but they are not being considered, for, the impugned advertisement dated 27.12.2017 (Annexure P-4) had limited the eligibility of those candidates who had applied in the year 2015. The cancellation of the previous exam could not vest any preferential right in favour of the previous candidates. The practice which earlier had been followed by the State of Punjab was that as and when the posts were re-advertised, all the eligible candidates on the date of advertisement were considered for being eligible. Reliance had been laid to the advertisements dated 18.8.2015 and 10.9.2016 (Annexures P-5 and P-6).

It has further been averred that the Chairman Selection Committee had issued a public notice dated 8.6.2018 regarding re-examination for 272 posts on 1.7.2018 (Annexure P-9) and, therefore, cause of action accrued. Reliance has also been laid to the order dated 16.1.2018 (Annexure P-10) passed by this Court in Civil Writ Petition No.659 of 2018 titled as “Simrandeep Singh and others Versus State of Punjab and others”,

wherein this Court, in identical situation, passed the following order:-

*“Contends that the examination for selection of Assistant Municipal Engineer and Assistant Corporation Engineer conducted in pursuance to the advertisement dated 01.07.2015 was scrapped on account of irregularities. Now the fresh selection process has been initiated and a schedule of examination (Annexure P-4) has been issued whereby only the earlier applicants who applied in pursuance to the advertisement dated 01.07.2015 have been made eligible. The petitioners have acquired eligibility in the interregnum period and they are not being considered for selection.*

*Notice of motion for 23.04.2018.*

*In case the petitioners hold the requisite qualification, prescribed for the post, they be provisionally allowed to participate in the examination process. However, the same shall remain subject to the outcome of the writ petition.”*

Mr.Madhur Goyal, learned counsel for the petitioners in CWP No.15555 of 2018 and Vikas Arora, learned counsel for the petitioners in CWP No.15607 of 2018 submitted that in case the petitioners are not allowed to appear in the examination, great prejudice and injustice much less discrimination would be caused to them, which should not be adopted by the State of Punjab for filling up the aforementioned posts and, thus, urged this Court for granting interim order in the same terms as indicated above.

I have heard the learned counsel for the petitioners, appraised the paper books and of the view that there is no force and merit in the submissions of the learned counsel for the petitioners.

The advertisement is Annexure P-9, wherein re-examination for 272 posts out of 456, has been ordered, i.e., of Junior Engineer/Assistant Engineer/SDE in pursuance to the decision rendered by this Court in Civil

Writ Petition No.14623 of 2016 titled as “Harpreet Singh and others Versus State of Punjab and others” and connected writ petitions, decided on 19.3.2018. The present writ petition came up for hearing on 18.6.2018, wherein this Court called upon the learned counsel for the petitioners to place on record copy of the order indicated in the advertisement. Vide Misc.Application No.8799-CWP of 2018, the order dated 19.3.2018 had been attached as Annexure P-11.

On going through the decision Annexure P-11, it is evident that this Court had directed to re-conduct the examination of the cancelled posts.

For the sake of brevity, the operative part of the same reads thus:-

*“I have heard learned counsel for the petitioner(s) and perused the record with their able assistance.*

*The petitioner(s) in the batch of petitions are aggrieved against the impugned order(s) whereby the recruitment process of 456 posts in the Department of Local Bodies, Punjab has been cancelled by the respondents on account of leakage of examination papers. In the backdrop, the Department of Local Bodies, Punjab had advertised 682 posts by way of direct recruitment of various categories in different cadres i.e. Municipal Corporations, Municipal Councils, Nagar Panchayats and Improvement Trust, Punjab Water Supply Sewerage Board in the State of Punjab, vide public notice dated 01.07.2015 (Annexure P-1). The said posts were later on revised to 670 by way of corrigendum dated 08.07.2015. The petitioner(s) after fulfilling the eligibility applied for the said posts. The written examination was held in Punjab University, Chandigarh from 07.11.2015 to 15.11.2015 in morning and evening shifts, vide schedule (Annexure P-2). The result for the said posts was declared on 17.12.2015 (Annexure P-4) which was uploaded on the website of the Department and also published in different newspapers. After declaration of the*

*result, the department had received certain complaints qua the leakage of question papers leading to the present controversy. Accordingly, an enquiry was conducted by the Vigilance Bureau, Punjab into the matter whereby it has come to the notice that certain aspirants for the different posts had access to the question papers prior to the examination. At the first instance, the examination of 61 posts of (i) Assistant Corporation Engineer (Civil), (ii) Assistant Municipal Engineer (Civil) and (iii) Sub Divisional Engineer (Civil) were cancelled, however, after finding prima facie material, the recruitment process of 456 posts was cancelled. During the investigation, it has come on record that several candidates were taken to Lucknow or Nazafgarh by the persons acting as conduits, where they were shown the examination papers. The submission(s) made by learned counsel for the petitioner(s) that since the FIR has been registered against the suspected candidates, therefore, they be not made to suffer irreparable loss on account of the wrong act done by others is repelled as the sanctity of the examination is totally breached and the same indicate towards a scam which needs to be unearthed by conducting a deep probe in the matter. Though, it cannot be disputed that some of the petitioner(s) have diligently and honestly prepared for the said posts, however as the entire selection process has been tainted, it is in the interest of justice and fair play to re-conduct the examination process as decided by the High Level Committee.*

*From the above facts and circumstances of the case, this Court finds no merit in the instant petition(s) and the same are hereby dismissed.*

*The State is directed to re-conduct the examination of the cancelled posts. The petitioner(s) herein and the other candidates who had earlier applied for the posts shall not be charged further fee etc. and they be allowed to appear in the examination and after their due verification and identification,*

*their admit cards be uploaded on the website. The Vigilance Bureau is directed to conclude the investigation in the meantime”*

On asking of the Court, concededly the petitioners had not applied for the post as they were not eligible when the aforementioned posts were sought to be filled in the year 2015. In such circumstances, they cannot be permitted to sit in the examination of having acquired the eligibility later on. It would not be a case of discrimination, for, no person who has not submitted the application, can be permitted to sit in the examination as has been done vide interim order dated 16.1.2018. Perhaps this Court was not apprised about the fact that the petitioners in CWP No.659 of 2018 had applied or not. The advertisement has been issued in pursuance to the order dated 19.3.2018 and in case the department had sought the applications from other candidates, who had become eligible, it would have tantamounted to willful disregard and disrespect of the order dated 19.3.2018.

For the reasons stated above, I am of the view that the impugned action of the respondents cannot be said to be brought within the realm of judicial review or illegality or injustice, much less discrimination. No ground for interference is made out.

Writ petitions stand dismissed.

**June 20, 2018**  
**ramesh**

**( AMIT RAWAL )**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether Reportable:**

**Yes/No**