

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

CWP No.22221 of 2017 (O&M)

Date of decision: February 26, 2018

Sachin Jain

.....Petitioner

Versus

Punjab and Haryana High Court and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr. Mohit Jaggi, Advocate for the petitioner.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Vikas Chatrath, Advocate,
Ms. Shalini Verma, Advocate and
Mr. Rajanjeet Singh, Advocate
for the respondents-High Court.

A.B. CHAUDHARI, J

CRM No.1515-CWP of 2018

Heard.

Application is allowed and replication is taken on record.

CWP No.22221 of 2017

By the present petition, petitioner-Sachin Jain has sought a writ in the nature of mandamus directing the respondents to declare him eligible and permit him to participate in the *viva voce* fixed for 27.09.2017

FACTS

Pursuant to the invitation of applications vide notification No.92 dated 16.07.2015, by which 10 posts of Haryana Superior Judicial Services by way of direct recruitment were notified and pursuant to the corrigendum dated 17.08.2016, the petitioner had applied for the said post as an practicing Advocate. The petitioner's name was found at Sr. No.356

in the list of the candidates who were provisionally allowed to appear in the written examination held from 10.02.2017. He was given an admit card for the said examination. He was declared successful. However, in the result, it was mentioned that he was found eligible, subject to removal of certain discrepancies with the roll No.1267 of the petitioner. The discrepancy was like of ITR showing Gross Professional income of ₹5 lakh or more for three years and data regarding requisite number of court cases for the three years preceding the application. The petitioner submitted documents on 16.08.2017 at 3:20 p.m. but the candidature of the petitioner was, however, rejected vide Annexure P-7, which is under challenge in this petition.

ARGUMENTS

Learned counsel for the petitioner submitted that as per corrigendum dated 17.08.2016 itself, he was allowed to appear provisionally and had been successful and therefore, there was no occasion for the respondents to reject his candidature when respondents themselves have allowed to appear as per corrigendum. The next submission is that in view of the order made by the Apex Court allowing appearance provisionally regarding eligibility criteria, the candidature of the petitioner should not have been rejected and the same has been wrongly rejected. Hence, he prayed for allowing of the petition.

Per contra, learned Senior counsel for the respondents supported the impugned decision of the committee and submitted that the petitioner does not fulfill any criteria that was fixed for the Advocates who wanted to participate. The committee gave reasons in the proceedings dated 06.09.2017 (Annexure R-1). The reasons are self-speaking and there is no reason to interfere in the present petition as the petitioner nowhere falls

under the requirement as per law.

CONSIDERATION

We have heard learned counsel for the rival parties for some quite time. We find from the admitted facts that the petitioner himself claimed that he was working as a junior Advocate from 2012 to 2015 and did not have any independent engagement in the Court cases. He has furnished a list of 35 cases for year 2016 and 20 cases for the year 2017. Obviously, he did not fulfill the requirement of criteria in respect of number of cases. Instead of repeating the reasons, we quote the following from Para 12 of the written statement of the respondents:-

“12. That the averments of this para are wrong and denied in view of the position as explained above. The sub parawise reply is as under:-

(i) That the petitioner has not made out any ground for considering him eligible, the condition number 2(bb) which is in accordance with Rule 11(bb) of the Haryana Superior Judicial Services Rule, 2007, still exists, till date the said condition has not been quashed. Consequently, no appointments can be made dehors of the Rules.

(ii) that candidates who applied had provisionally been allowed to appear in the Main Written Examination at their own risk and responsibility subject to production of proof of their eligibility in all respects under the Rules, 2007. Nowhere it has been mentioned that any candidate provisionally appearing in the examination is held finally eligible. The submissions

(iii) That the contents of this sub-para are matter of record, however, the interim order does not further the case of the petitioner.”

Clause 2(bb) of the Notification dated 16.07.2015 reads thus:-

“2(bb) must be an income tax assessee for at least three assessment years preceding the date of application, with gross professional income of not less than rupees five lacs per annum. The applicant shall also be required to attach the proof of his independent engagement and conducting of not less than fifty cases (other than bunch cases) as per year in the preceding three years;

Provided that in case of candidates belonging to Scheduled Castes, Scheduled Tribes, Backward Classes, differently abled persons and Ex-servicemen, the gross professional income shall not be less than rupees three lacs per annum and the condition of independent engagement and conducting of cases shall be forty cases (other than bunch cases) per year in the preceding three years;”

The clarification in corrigendum dated 17.08.2016 providing for exemption from the above is only for 'in-service' (in judicial service) candidates.

In this connection, we have also gone through the affidavit (Annexure P-6) of the petitioner addressed to Registrar (Recruitment). It would be appropriate to quote the relevant portion from the said affidavit which reads thus:-

“I Sachin Jain son of Sh. Prem Chand Jain, applied under General category and appeared on all the five paper of Haryana Superior Judicial Service Examination-2017, held from 10.02.2017 to 12.02.2017 under Roll No.1267, do hereby solemnly affirm and declare that prior to year 2016, I was practicing as Junior/Associate and assisted in number of cases but I, do not have any independent engagement and conducting of cases pertaining to those years viz:- 2012, 2013, 2014, 2015. If the incumbent permits me to submit the list of cases filed and conducted jointly, I can submit the list to your goodself. From the year 2016 onwards, I am doing practice

independently and do hereby declare the number of Court cases pertaining to year 2016 and 2017 as follows:-

<i>Years</i>	<i>Number of Court Cases (figures Only)</i> <i>(Independent engagement and Conducting)</i>
<i>1.1.2016 to 31.12.2016</i>	<i>35 (List attached as Annexure C-1)</i>
<i>1.1.2017 to 31.12.2017</i>	<i>20 (List attached as Annexure C-2”</i>

We thus, find that the petitioner admittedly lacks basic eligibility for being considered. We, therefore, find that on facts, there is no merit in the present petition. In the result, we make the following order:-

ORDER

- (i) CWP No.22221 of 2017 stands dismissed.

(A.B. CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

February 26, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No