

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

CWP No.22843 of 2017

Date of decision: February 26, 2018

Yatesh and others

.....Petitioners

Versus

Punjab and Haryana High Court through its Registrar
and another

.....Respondents

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

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

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

By the present petition, all these petitioners namely, Yatesh, Urmiljeet Kaur, Azad Singh Chahal and Dev Dutt have sought writ in the nature of certiorari for quashing the order/result dated 12.09.2017 (Annexure P-10) by which the candidature of the petitioners stood rejected.

FACTS

Pursuant to the notification No.92 dated 16.07.2015 and the corrigendum dated 17.08.2016 inviting application for the post of Additional District Judge in the Haryana Superior Judicial Services, the petitioners had made applications for the said post from the category of practicing advocates. The petitioners were allowed to appear provisionally in the examination that was held from 10.02.2017 to 12.02.2017. The result was declared and the petitioners were successful, but it was mentioned that the same was subject to removal of certain discrepancies. The petitioners

were asked to remove the discrepancies as mentioned against their names. However, ultimately, their candidature was rejected by the impugned order dated 12.09.2017 (Annexure P-10).

ARGUMENTS

Learned counsel for the petitioners submitted that the impugned order (Annexure P-10) is illegal and contrary to the record so also the corrigendum dated 17.08.2016. Apart from that, since the petitioners were allowed to appear in the examination provisionally, there was no reason for denying the consideration as was done. Learned counsel for the petitioners also contended that the clause 2(bb) of the Advertisement is under challenge before the Apex Court and therefore, the same should not be considered as relevant factor for deciding the present petition. He prayed for allowing of the petition.

Per contra, learned Senior counsel for the respondents submitted that the said clause 2(bb) still holds the field and has not been set aside. At any rate, according to him none of the petitioners at all fulfill the eligibility criteria and therefore, it is no gain-saying that their candidature should have been considered.

CONSIDERATION

We have heard learned counsel for the rival parties, perused the entire record and petition along with documents. We have also perused the written statement filed by the respondents. At the outset, we find that the committee has applied its mind and given the reasons for rejecting the candidature of each of the petitioners. The reasons have been reproduced by the respondents in Para 8 of the written statement. We quote the said Para 8 of the written statement hereunder:-

“8. That the averments of this para are wrong and denied as Annexure P-6 nowhere described the petitioners 'found eligible'. The candidature of the petitioners decided by the Hon'ble Committee as under:-

'The candidate, namely, Ms. Yatesh bearing Roll No.1019 does not fulfill the eligibility criteria qua number of court cases conducted by her as she has attached list of 26 cases for the year 2013, 47 cases list for the year 2014 and 50 cases list for the year 2015, therefore, her candidature is hereby rejected'.

'The candidate, namely, Ms. Urmiljeet Kaur bearing Roll No.1144 does not fulfill the eligibility criteria qua professional income as she has furnished the income tax return for the year 2015-16 according to which her income is Rs.5 lac. She has not furnished any proof of her professional income for the year 2012-13, 2013-14 or 2014-15. She has submitted the copies of income tax returns for the assessment years 2016-17 and 2017-18 which are beyond the period of consideration. Her candidature thus is hereby rejected'.

'The candidate, namely Shri Azad Singh Chahal bearing Roll No.1186 joined service as Civil Judge (Junior Division) on 07.04.2016 in the State of Haryana. He does not fulfill the eligibility criteria qua Professional Income as well as number of Court cases for the requisite period of his practice as an Advocate. His representation dated 16.08.2017 for considering him under relaxed criteria of reserved categories as he belongs to PH (HI) category is hereby rejected as no post for PH (General) category is advertised in the notification dated 16.07.2015. Therefore, his candidature is hereby rejected'.

'The candidate, namely, Shri Dev Dutt bearing Roll No.1415 is working as DDA in the Prosecution Department, Punjab since 29.01.2015. He does not fulfill the eligibility criteria qua professional income as well as number of court cases conducted by him during the requisite period of his practice as an Advocate. His representation dated 16.08.2017 for allowing him to participate in viva-voce on the ground that clause 2(bb) of the Advertisement is under challenge before the Hon'ble Supreme Court of India and pending for final disposal. The said challenge has no bearing on this matter as on today. Hence, the representation is hereby rejected. Therefore, his candidature is also hereby rejected.'

We have examined the aforesaid reasons by tallying the same with the record in the petition. We find that the committee has considered the reasons in the correct perspective. The committee, therefore, rightly found that all these petitioners do not fulfill the eligibility criteria qua data of number of court cases. We do not find any factual error in the decision of the committee.

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

In so far as the challenge to clause 2(bb) of the Advertisement is concerned, assuming the same is under challenge before the Apex Court, the fact remains that the said clause still holds the field and has not been set aside. The rigours of the said rule therefore, will have full applicability in the present case. We are unable to agree with the submissions made by learned counsel for the petitioners.

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.22843 of 2017 stands dismissed.

(A.B. CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

February 26, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No