

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP- 24282-2017 (O&M)
Date of decision: 14.08.2018

Anmol Singh Nayar

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: Hon'ble Mr.Justice A.B.Chaudhari
Hon'ble Mr.Justice Kuldeep Singh**

Present: Mr.Manohar Lall, Advocate for the petitioner
M/s Vikas Chatrath; Rajanjeet Singh and
Aditya Pandey, Advocate for respondent no.2
Mr.C.B.Goel, Advocate for respondent no.3
Ms.Aashma Gill, Advocate for
Mr.Aman Pal, Advocate for respondent no.5
M/s Vinay Kuhar and Rajeev Sharma (Raju) Advocates
for respondent no.6
Mr.Narender Singh, Advocate for respondent no.7
Mr.Vineet Sehgal, Advocate for respondent no.8
M/s Pradeep Virk and R.Kartikeya, Advocates
for respondent no.9

- 1. Whether Reporters of Local newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

Petitioner, who is serving as Civil Judge, Senior Division-cum-Chief Judicial Magistrate, Bhiwani, has invoked the writ jurisdiction of this Court under Articles 226 and 227 of Constitution of India, seeking quashing of the order dated 21.10.2017 (Annexure P12), vide which, respondent no.1 appointed respondent nos.3 to 9 as Additional District & Sessions Judges, by way of promotion on the recommendation of respondent no.2, in violation of Rules 6 (1) (a) and 8 of Haryana Superior Judicial Service Rules, 2007 by ignoring rightful claim of the petitioner. He has also

challenged the guidelines framed by the Full Court in a meeting held on 29.1.2013 (Annexure P11).

The grouse of the petitioner is that after joining as Civil Judge (Junior Division)-cum-Judicial Magistrate since 27.1.2007, he has been working sincerely. He successfully completed probation. Respondent No.2 High Court on 18.11.2014 directed 54 HCS (JB) Officers, including the petitioner, to forward the best judgments (3 Civil and 3 Criminal). All the 54 officers, including the petitioner, were required to appear in suitability test for the post of Additional Sessions Judge under Rule 6(1)(a) of Haryana Superior Judicial Service Rules, 2007 . The suitability test was fixed for 13.12.2014. One day before, he was told that since petitioner is below 35 years of age, he is not being called for suitability test in view of the guidelines. Petitioner challenged the said decision by way of filing CWP No.285 of 2015, which was disposed of as not pressed vide order dated 12.7.2017, as the petitioner was going to complete 35 years on 17.5.2017.

Grievance of the petitioner in the present writ petition is that again for 20 posts, Judicial Officers were called for suitability test under Rule 6(1)(a) of Haryana Superior Judicial Service Rules, 2007 vide letter dated 25.7.2017. Test was held on 12.8.2017 in Judicial Academy, Sector 43, Chandigarh. Thereafter, petitioner appeared for interview on 12.9.2017 but was not selected. 7 names were recommended. Petitioner claimed that selection appears to have been made on the basis of the seniority-cum-merit, which is against Rule 6(1)(a) of Haryana Superior Judicial Service Rules, 2007. He prays for setting aside of the same.

The factual position is not disputed by the High Court in the written statement. It was stated that a criteria was laid down to test the

suitability of the candidates. 20 HCS (JB) Officers cleared the suitability test held on 12.8.2017 and Vice Voce on 12.9.2017 and 13.9.2017. A Committee of Judges had gone through the judgments of the officers carefully. The Committee graded the judgments delivered by Sh.Anmol Singh Nayyar - petitioner, posted as Civil Judge (Senior Division)-cum-Chief Judicial Magistrate, Bhiwani as 'below average'. Thus Committee recommended that he is not recommended for promotion. Other officers were promoted.

We have heard learned counsel for the parties and have also carefully gone through the file.

Admittedly, promotions under Rule 6(1)(a) of Haryana Superior Judicial Service Rules, 2007, which is attracted in the present case, are to be made on the basis of merit-cum-seniority. In order to assess the merit and suitability, Rule 8 lays down as under:-

8. For assessing and testing the merit and the suitability of a member of the Haryana Civil Service (Judicial Branch) under rule 6(a) above, the High Court may-

(a) take into consideration

(i) Annual Confidential Reports for preceding five years;

(ii) inspection report of the court of the officer made by the inspecting judge nominated by the Chief Justice during the preceding three years;

(iii) inspections done by the officer of his own court and courts subordinate to him if he is assigned inspection work of those courts during the preceding three years;

(iv) self assessment report of the officer of the work

during the preceding three years;

(v)judgments of the cases decided by the officer during the preceding three years; and

(b) hold a written objective test (20 marks); and viva voce (20 marks) in order to ascertain and examine the legal knowledge and to assess the efficiency in legal field.

Provided that any officer having grading as C (integrity doubtful) in any year shall not be eligible to be considered for promotion.

Therefore, it is clear that the judgments of the officers during preceding three years was one of the components to be considered for assessing merit and suitability. Admittedly, the petitioner had passed the written test and viva voce test but the Committee examined his judgments and graded it 'below average'. Therefore, he was found not suitable. The final result is reproduced as under:-

Sr. No.	Name	Correct Questions	Marks in written exam	Marks in viva voce	Total Marks	Grading judgments	Whether qualified or not”?
1	Rajesh Gupta	68	51	16	67	Above Average	Qualified
2	Amit Kumar Garg	53	43.5	16	59.5	Above Average	Qualified
3	Amit Garg	63	47.25	18	65.25	Good	Qualified
4	Saurab Gusain	58	43.5	18	61.5	Good	Qualified
5	Aarti Singh	48	36	16	52	Good	Qualified
6	Anmol Singh Nayar	74	55.5	10	65.5	Below Average	Not Suitable
7	Puneet Sehgal	66	49.5	18	67.5	Very Good	Qualified
8	Suruchi Atreja Singh	73	54.75	18	72.75	Very Good	Qualified
9	Vijay James	61	45.75	15	60.75	Above Average	Qualified
10	Yashika	67	50.25	17	67.25	Good	Qualified

11	<i>Parminder Kaur</i>	61	45.75	11	56.75	<i>Above Average</i>	<i>Qualified</i>
12	<i>Vijayant Sehgal</i>	57	42.75	14	56.75	<i>Good</i>	<i>Qualified</i>
13	<i>Payal Bansal</i>	68	51	12	63	<i>Above Average</i>	<i>Qualified</i>
14	<i>Sunil Chauhan</i>	69	51.75	17	68.75	<i>Good</i>	<i>Qualified</i>
15	<i>Anupanish Modi</i>	66	49.5	16	65.5	<i>Good</i>	<i>Qualified</i>
16	<i>Prashant Rana</i>	62	46.5	18	64.5	<i>Good</i>	<i>Qualified</i>
17	<i>Renu Rana</i>	58	43.5	13	56.5	<i>Above Average</i>	<i>Qualified</i>
18	<i>Swati Sehgal</i>	54	40.5	18	58.5	<i>Good</i>	<i>Qualified</i>
19	<i>Sanjay Kumar Sharma</i>	73	54.75	13	67.75	<i>Good</i>	<i>Qualified</i>
20	<i>Harshali Chaudhary</i>	53	39.75	17	56.75	<i>Good</i>	<i>Qualified</i>

Therefore, it is apparent that under Rule 8 of Haryana Superior Judicial Service Rules, 2007 itself, quality of the judgments of the petitioner was required to be examined. For this purpose, a Committee of Judges was formed, which was required to form an opinion regarding the quality of judgments. Since, quality of judgments of the petitioner was found 'below average', therefore, despite having passed the written and viva voce test, the petitioner was found not suitable for promotion to the post of Additional District & Sessions Judge.

We are of the view that there is no illegality or infirmity in the decision of the High Court in ignoring the petitioner for promotion. The post of Additional District & Sessions Judge is of much higher responsibility. The skill of the officer to martial the evidence, law and pass a reasoned judgment have to be of higher quality so that people may get justice. It is apparent that except the petitioner, quality of judgments of all other 19 candidates was found to be either 'above average' or 'good' or 'very good' and therefore, they were found suitable for promotion. Since, quality of judgments of the petitioner was 'below average', therefore, there is no illegality or infirmity in finding the petitioner not suitable for promotion to

the post of Additional District & Sessions Judge. This is in perfect consonance with the Rules reproduced above. The petitioner had withdrawn his earlier writ petition, whereby he has challenged certain Rules. We find no merit in the present writ petition. The same is accordingly dismissed.

(A.B.Chaudhari)
Judge

(Kuldip Singh)
Judge

14.08.2018

gk

Whether speaking/ reasoned:	Yes
Whether Reportable:	No