

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 584 of 2016

Date of decision : 22.11.2018

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Deepti Attri

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Anjum Ahmed, Advocate for the petitioner.
Mr. Kiran Pal Singh, AAG, Haryana.
Mr. R.S Budhwar, Advocate for respondent no.5.

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RITU BAHRI, J.

The petitioner is seeking a writ of certiorari for setting aside the selection (Annexure P-4) for the post of Reception Officer which was advertised vide advertisement no.4/2015 dated 18.6.2015 (Annexure P-1) by the Haryana Vidhan Sabha Secretariat, Chandigarh.

Briefly stated, the facts of the case, are that respondent no.1 advertised one post of Reception Officer vide advertisement No.4, 2015 dated 18.6.2015. As per the advertisement (Annexure P-1), requisite qualification/experience for the above said post was as under:

(i) Graduate with good personality.

- (ii)Preference to those who hold one year
Diploma in Hostel Reception and book
keeping.*
- (iii)Knowledge of Hindi/Sanskrit up to
MATRIC or higher education.*

Total 206 candidates had applied for the above said post, including the petitioner. Out of these 12 candidates were declared not eligible for this post. Selection Committee of respondents no. 2 & 3 had been constituted by the Speaker, Haryana Vidhan Sabha Secretariat vide his order dated 13.7.2015 for conducting the viva voce/interview. The interview letters were issued to the candidates including the petitioner and they were called for interview which was scheduled to be held on 30th & 31st July, 2015. One hundred and twenty six candidates appeared for the interview. The Selection Committee interviewed the candidates and awarded them marks as per their qualifications. Total marks for the interview was 50 marks. As per the information sought under RTI Act, 2005, the petitioner got the information that as per the result list, respondent no.5 was awarded 37 marks and the petitioner was awarded 33 marks. The petitioner is challenging the selection of respondent no.5 on the ground that she is more qualified and meritorious than respondent no.5. Moreover, respondent no.5 was from the family of the Speaker and that's why he was awarded more marks. Hence the present petition.

In the written statement, it has been submitted that the Selection Committee comprising of respondents no. 2 & 3 had conducted

the interviews for the post of Reception Officer on 30.7.2015 and 31.7.2015 including the petitioner. The interviews were taken on the basis of criteria fixed and approved by the competent authority i.e Speaker, Haryana Vidhan Sabha Secretariat to judge the general knowledge, general intelligence, awareness, expressions, speaking ability in English and Hindi and other related qualities. Total 50 marks were assigned for this interview and out of 50 marks, each member was assigned 25 marks. As per the criteria for qualifying the interview, the candidate must obtain at least 40% marks. A copy of the criteria is annexed as Annexure P-7. As per the relevant rules, the qualification required for the post of Reception Officer is as under

(iv) Graduate with good personality.

(v) Preference to those who hold one year Diploma in Hostel Reception and book keeping.

(vi) Knowledge of Hindi/Sanskrit up to MATRIC or higher education.

The above said qualification is minimum requirement only for applying the said post. It is incorrect to say that marks awarded in the interview are only on the basis of educational qualification acquired by the candidates. The Committee has awarded the marks to each and every candidate as per their performance in the interview in which the general knowledge, general intelligence, awareness, expression, speaking ability in English and Hindi etc. of the candidates was judged by the Selection Committee. It was further submitted in the written statement that it is

incorrect that the Selection Committee awarded more marks to respondent no.5, than the petitioner under any type of influence. Moreover, no evidence is available in the records of Haryana Vidhan Sabha Secretariate that respondent no.5 is from the family of Speaker, Haryana Vidhan Sabha i.e respondent no.4. Even if respondent no.5 is considered to be the relative of the speaker, his right to apply and also to get selected for the required post cannot be denied. It is further submitted that the selection was made on the basis of educational qualification acquired by the candidates. The qualification was considered only for the eligibility of a candidate to apply for the post. The higher qualification doesn't mean the guarantee of selection. A candidate acquiring minimum qualification can perform better in the interview than a candidate having higher qualification. Moreover the selected candidate also acquires good qualification and experience. The petitioner's qualification is M.B.A, M.A (Psy.) and M.A (English) and five year experience as senior executive in Haryana Overseas Placement Soccity, Panchkula, whereas respondent no.5 also acquires high qualification i.e B.Com, M.Com, B.Ed., M.A (Sociology) and nine years experience as Guest Teacher, moreover he has also qualified the HTET. Therefore, as per the aforementioned comparison of the qualifications and experience between the petitioner and respondent no.5, the petitioner possesses the degree of MBA which respondent no.5 is not acquiring. Respondent no.5 has experience of nine years as Guest Teacher, whereas the petitioner has only five years experience as Senior Executive. Therefore the comparison of qualification and experience between both the candidates

i.e the petitioner and respondent no.5 is identical/almost equal. The Selection committee has awarded marks on the basis of overall performance of the candidates and not on the basis of educational qualification acquired by the candidates as the petitioner is claiming.

Heard counsel for the parties. As per a judgment passed by a Division Bench of this Court in the case of **Amarjeet Kaur vs. Central Administrative Tribunal Chandigarh Bench, Chandigarh and others 2016 (2) SCT 483**, once a candidate participates in the entire selection process and declared unsuccessful, he/she cannot turn around and subsequently contend that the process of interview was unfair and selection committee was not properly constituted. It was held that the Members of the Recruitment Committee are the best judge to award the marks in the interview taking into consideration all the relevant factors and suitability for the post. In paragraph 25 of this judgment, it has been observed as under:

*25. It is also not disputed that the present petitioner has participated in the entire selection process and when she was declared unsuccessful she filed the Original Application before the learned Tribunal. It is now well settled that if a candidate takes a calculated chance and appears at the interview then because the result of the interview is not palatable to him, he cannot turn around and subsequently contend that the process of interview was unfair or selection committee was not properly constituted. Reference can be made to case **Om Prakash Shukla Vs. Akhilesh Kumar***

Shukla and Ors., AIR 1986 SC 1043.

The ratio of the judgment in *Amarjeet Kaur's case (supra)* is applicable to the facts of the present case. In the present case, appointment letter to respondent no.5 Sanjay Kumar was issued on 4.8.2015 (Annexure P-4) and the present writ petition has been filed on 6.1.2016. After the entire selection process is over and respondent no.5 has already joined, the petitioner is seeking quashing of the selection on the grounds that the selection criteria was not disclosed at the time of advertisement and that the selected candidate was related to the Speaker, Haryana Vidhan Sabha Secretariat. The selection criteria was as per the Haryana Vidhan Sabha Service Rules, 1981. It is not the case of the petitioner that the eligibility has been altered to suit a particular candidate i.e respondent no.5. The educational qualifications as per the 1981 Rules have been rightly reflected in the advertisement (Annexure P-1). Just because, respondent no.5 is related to the Speaker, Vidhan Sabha, the selection of respondent no.5 cannot be quashed as he had independent right to compete on the post as per the service rules in accordance with the law.

Having regard to the aforesaid, the present writ petition is dismissed.

22.11.2018

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JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

No