

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(1.)

CWP-10718-1995 (O&M)

Date of Decision:-05.02.2019.

Pratap Singh

.....Petitioner

Versus

Chaudhary Charan Singh, Haryana Agricultural University of Hissar
through its Registrar and others

.....Respondents

(2.)

CWP-9400-1995 (O&M)

Jagbir Singh

.....Petitioner

Versus

Chaudhary Charan Singh Haryana Agricultural University of Hissar through
its Registrar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Y.P. Malik, Advocate for the petitioner in
CWP-10718-1995.
Mr. K.K. Gupta, Advocate for the petitioner in
CWP-9400-1995.

Mr. L.N. Verma, Advocate for respondent Nos.1 and 2.

Mr. Vivek Khatri, Advocate for respondent Nos.3 and 4.

Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Kumar Rana, Advocate for respondent No.5.

Mr. D.S. Rawat, Advocate for respondent No.6.

ARUN MONGA, J. (Oral)

1.) This order of mine shall dispose of the above 2 writ petitions
arising out of common cause. Both the writ petitions have been filed *inter*
alia for issuance of a writ in the nature of *certiorari* to quash the selection
and appointment of respondent Nos.3 to 5 as District Extension Specialists

in the petitions is that the petitioners are more meritorious than respondent Nos.3 to 5 and they have not been assessed as per the criteria that was to be followed by the respondent-Chaudhary Charan Singh, Haryana Agricultural University, Hissar.

2.) Vide order dated 6.12.2017, this Court had passed an order directing the Registrar of the Chaudhary Charan Singh, Haryana Agricultural University, Hissar as also its part Successor University i.e. Lala Lajpat Rai University of Veterinary and Animal Sciences, Hissar to file their affidavits giving details of the vacancy position w.e.f. date of selection of respondent No.5. Pursuant thereto, an affidavit dated 16.12.2017 has been filed on behalf of Lala Lajpat Rai University of Veterinary and Animal Sciences, Hissar qua the post on which the petitioners are staking their claim.

On behalf of Chaudhary Charan Singh, Haryana Agricultural University, Hissar also an affidavit dated 19.12.2017, has been filed which reflects the vacancy position as under:-

"Sr. No.	Name of the Deptt./KVK	Post	Name of the Scheme	Since lying vacant	Reasons of Vacancy
1	Ambala	DES (Ani. Science)	D-Extn-1-NP Agri.	14-03-2002	Due to transfer of Dr. O.P. Mehla
2	Kaithal	DES (Ani. Science)	D(b) DEE-15-C-ICAR	13-05-2003	Due to transfer of Dr. R.S. Sheokand at LUVAS
3	Fatehabad	DES (Ani. Science)	D-Extn-1-NP Agri.	01/04/06	Due to adjustment of teacher in ICAR scheme
4	Sadulpur	DES (Ani. Science)	D(b) DEE-11-ICAR	21-02-2009	Due to transfer of Dr. O.P. Mehla
5	Karnal	DES (Ani. Science)	D-Extn-1-NP Agri.	01/05/10	Due to Retirement of Dr. Jagvir Singh
6	Rohtak	DES (Ani. Science)	D-Extn-1-NP Agri.	16-03-2011	Due to transfer of Dr. Rajinder Singh at KVK, Jhajjar
7	Rohtak	DES (Ani. Science)	D(b) DEE-15-H-ICAR	17-03-2011	Due to transfer of Dr. Rajinder Singh at KVK, Jhajjar

8	Bhiwani	DES (Ani. Science)	D-Extn-1-NP Agri.	01/04/11	Due to transfer of Dr. O.P. Mehla
9	Fatehabad	DES (Ani. Science)	D(b) DEE-15-M-ICAR	01/04/11	Due to transfer of Dr. D.V.S. Dahiya to LUVAS
10	Jhajjar	DES (Ani. Science)	D-Extn-1-NP Agri.	01/04/11	Due to transfer of Sajjan Singh to LUVAS
11	ATIC	DES (Ani. Science)	D-Extn-1-NP Agri.	01/06/11	Due to transfer of Dr. S.K. Chhikara to LUVAS
12	Jind	DES (Ani. Science)	D(b) DEE-15-B-ICAR	22-08-2013	Due to transfer of Dr. Ramesh Kumar at LUVAS
13	Sirsa	DES (Ani. Science)	D-Extn-1-NP Agri.	15-08-2016	Due to termination of service of Dr. S.M. Chahal consultant faculty”

3.) During the course of arguments, learned counsel for petitioners handed over a copy of an RTI information dated 18.01.2018, supplied to them by the Chaudhary Charan Singh, Haryana Agricultural University, Hissar/respondent No.1. The said information states as under:-

“In view of Point No.4 in this RTI, the information related to the vacant post of DES (Animal Science) is as under:-

1. KVK Panipat : 01.04.1995 to 31.12.1998
2. KVK Fatehabad : 1998-99 to 2001-2002
3. KVK Pinjore : 01.04.1999 to 30.11.1999
4. KVK Faridabad : 07.12.2000 to 17.03.2002
08.06.2002 to 04.09.2002
5. KVK Panipat : 31.12.2002 to till now”

4.) The issue involved in these cases is whether all the candidates who had taken part in the selection process could have been granted 5 marks on completion of their Ph.D research work, even though they had not been actually awarded the Ph.D degree.

5.) As per prescribed criteria, 5 marks each were to be given to those who had second class in Graduation, Post Graduation and Ph.D. 10

marks were to be given to those who got first class in Graduation, Post

Graduation and Ph.D. Whereas, in the present selection 5 marks have been given for Ph.D. to those who had yet not awarded the Ph.D. degree.

6.) In reply affidavit dated 05.12.2017 of Mr. M.S. Dahiya, Registrar of Chaudhary Charan Singh, Haryana Agricultural University, Hissar it has been deposed that 5 marks had been awarded to all eligible candidates who had taken part in the selection process. Nothing has been produced on record by the Universities as to how these 5 marks were awarded to the selected candidates and what was the criteria framed for award of the such marks. The entire selection took place some time in 1995.

7.) Having gone through the pleadings before me and having heard the rival contentions of learned counsels of respective parties, I am of the opinion that the course adopted by the respondent-Chaudhary Charan Singh, Haryana Agricultural University, Hissar does not stand judicial scrutiny. The selection criteria did not permit award of any additional 5 marks. A copy of the advertisement (Annexure P-1) clearly states the prescribed qualifications and experience. It is nowhere stated that extra marks would be awarded for the Ph.D research work.

8.) Be that as it may, without going deeper into the merits of the case, I must say that I am in complete agreement with the reasoning by learned Judge given in the order dated 06.12.2017 passed by this Court in the present proceedings. The relevant thereof is reproduced hereinbelow:-

“Pursuant to the order dated 06.11.2017, an affidavit of Dr. M.S. Dahiya, Registrar of the Chaudhary Charan Singh Haryana Agricultural University (respondent no. 1), has been filed in Court today by Mr. L.N. Verma, learned counsel appearing for

the said University, in which it is stated that 05 marks had been awarded to all eligible candidates who had taken part in the selection process (such 05 marks having been awarded, as per learned counsel, on account of research work done by candidates towards obtaining their Ph.D. degrees).

It not having been pointed out from any document that such marks were to be awarded as per the criteria framed in the selection process in question, which took place in the year 1995, in the opinion of this Court, a change of criteria after the selection process had been initiated, was impermissible and therefore, even though 22 years have gone by after the selection was made, simply due to pendency of this writ petition, that does not justify such awarding of extra 05 marks simply on the basis of research work done, unless that criteria of granting such marks had been included in the criteria already declared.

As per the instructions/conditions attached to the advertisement Annexure P-1, the copy of such instructions/conditions having been annexed as Annexure P-3 with the petition, it is stated in Clause 3 thereof that the applicant must possess the prescribed qualification and experience on the last date of receipt of applications.

Again, though no “last date” has also been shown in the advertisement Annexure P-1, or in the conditions attached thereto, the advertisement being dated 28.12.1994, with the affidavit filed today in Court, a noting sheet has been annexed as Annexure R-4 therewith, by which it is shown that awarding 05 marks to all candidates “who have completed comprehensive exam” was a practice carrying on in earlier selections also and therefore, such marks could be awarded in the

selection process in question also. The said noting is seen to be dated the 2nd of September 1995.

The interviews already having been held on 16.06.1995, as is not denied by counsel on any side, in the opinion of this Court, that amounted to a change in the criteria subsequent to the selection process having been conducted, thereby attaching mala fides to the selection, to favour particular candidates, especially as it is seen that it is also stated in the same noting as follows:-

“Secondly, one mark for experience which has not been shown in the record can be deducted from the total marks obtained by Mr. Sajjan Singh and this deduction does not change the over all merit positions. Therefore, I approve the selection list and proceedings of Selection Committee. Mr. Sajjan Singh may be posted against the vacancy of DES Animals at KGK Sirsa.”

However, this Court obviously is not in a position to also ignore that respondent no. 5 has been working on the post for 22 years and has subsequently, at least in the year 2002, obtained a Ph.D. degree (which of course is about 07 years of his selection). Consequently, the Registrars of the Chaudhary Charan Singh Haryana Agricultural University as also its “partsuccessor University”, i.e. the Lala Lajpat Rai University of Veterinary and Animal Sciences, Hissar, shall file their affidavits, giving therein the vacancy position right since the date of the selection of respondent no. 5, as regards the post in question, i.e. District Extension Specialist (DES), by the next date of hearing.

Adjourned to 21.12.2017.

A copy of this order be given to Mr. L.N. Verma, learned counsel for respondents no. 1 and 2 and Mr. D.S. Rawat, learned counsel for respondent no. 6, under the signatures of the Bench Secretary of this Court.”

9.) Keeping in view the interest of justice and equity and without disturbing the equilibrium, suffice at this stage to observe, that the process adopted by the respondent-Chaudhary Charan Singh, Haryana Agricultural University, Hissar for selection was not as per the advertisement and the criteria, as originally prescribed. Consequently, respondent No.1 (Chaudhary Charan Singh, Haryana Agricultural University, Hissar) is directed to re-draw the merit list strictly according to criteria laid down in the advertisement as per the vacancy position reflected in affidavit dated 19.12.2017. It is made clear that in the event, it is found that marks awarded to respondent Nos.3 to 5 are disproportionate to their entitlement, they would be adjusted against the vacancies which are lying vacant, as reflected in the affidavit dated 19.12.2017. It is made clear that in the event petitioners' merit goes up and is decided favourably, they would not be entitled to any consequential pecuniary benefits other than notional fixation of their seniority. Let the needful be done within a period of 3 months from the date of receipt of certified copy of this order.

10.) Disposed of.

(ARUN MONGA)
JUDGE

February 05, 2019.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes / No

Yes / No.