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

CWP-18491-1994

Date of Decision: April 09, 2019

Joginder Kaur

... Petitioner

vs.

**Chaudhary Charan Singh Haryana Agricultural University and Ors
.. Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vikas Kumar, Advocate
for the petitioner.

Mr. S.S.Walia, Advocate
for respondents No. 1 and 2.

Mr. K.L.Arora, Advocate
for respondent No.3.

ARUN MONGA, J (ORAL)

The petitioner has challenged the selection of respondent No.3 to the post of 'Assistant Professor' (Hindi) made in the year 1994 and for direction for petitioner's appointment to the said post.

2. Learned counsel for respondent No.3 submits that not only the petitioner is in service, she is currently serving as 'Principal' in an education Institution and assuming the prayer of the petitioner is allowed, she is unlikely to accept an offer for appointment to the post of 'Assistant Professor' (Hindi), the appointment to which is under challenge.

3. I am in agreement with the submission of learned counsel for respondent No.3 that the present writ petition is rendered infructuous by efflux of time.

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3. Dismissed as infructuous.

4. At this stage, Mr. Vikas Kumar, Advocate appears and requests that the case deserves to be decided on merits and is not infructuous. At his request, the case is again taken up before signing of the order.

5. On merits, learned counsel for the petitioner strenuously argues that even though the criteria of selection has not been challenged by the petitioner, but regardless, the manner in which the marks have been awarded to the petitioner vis-a-vis respondent No.3, reflect that the said criteria has not been implemented in its true letter and spirit.

6. Learned counsel for the petitioner further submits that while petitioner has been awarded 3 marks in the interview, respondent No.3, on the other hand, has been awarded 6½ marks out of 10 marks. He further points out that as per the criteria, special weightage was to be given for past teaching experience, and accordingly, the petitioner was more suitable for selection to the post of Assistant Professor, as she was teaching Hindi as a Lecturer in Government Senior Secondary School, Jakhod Khera, Hisar, as reflected from her experience certificate (Annexure P5).

7. Learned counsel for the petitioner, therefore, contends that respondent No.3 was not entitled for 2 marks, given to her, as she lacked any teaching experience.

8. Learned counsel for the petitioner also submits that there was a conflict of interest as one of the Members of the panel of interview i.e. Mr. Yash Gulati, was the guide of respondent No.3 under whom she did her PH.d at the relevant time.

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9. On the other hand, learned counsel for respondent No.3 submits that the experience certificate reflects that the petitioner had volunteered to work in a Library for the Blind, while she was a student of S.D.College. Thereafter, she rendered her services for recording of music cassettes in the Library for the blind students.

10 Per contra, learned counsel for respondent No.3 points out that as far as the allegation of *mala-fide* is concerned, the same is not only an afterthought, even otherwise, the said doctor Yash Gulati has not been made a party to defend himself qua the said allegation of *mala-fide*. He further submits that as regards the allegations of awarding of marks arbitrarily, it was best left to the discretion of the experts who interviewed the candidates and awarded the marks and relies on a judgment, titled as **Dalpat Abasaheb Solunke vs. B.S.Mahajan, AIR 1990, SC. 434**, the relevant part whereof is extracted here-in-below:

“It is not the function of the court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting the selection etc. It is not disputed that in the instant case the University had constituted the Committee in due compliance with the relevant Statutes. The Committee consisted of experts and it selected the candidates after going through all the

relevant materials before it. Therefore, setting aside the selection on the ground of the so-called comparative merits of the candidates, as assessed by the Court while sitting in appeal over selection so made, would not be permissible.”

11. He further relies on a judgment, titled as **D. Sarojakumari vs. R.Helen Thilakom and others**, reported as **2017 AIR (SC) 4582**, wherein it has been held that once a candidate unsuccessfully participated in the selection process, it is, thereafter, not open to challenge the discretion of the experts in awarding of the marks.

12. Undisputedly, the respondent had duly constituted a Committee for selection of a suitable candidate for appointment as Assistant Professor (Hindi). The petitioner and respondent No.3 both were interviewed. After considering the comparative merit of candidates, the Selection Committee recommended the name of private respondent No.3 for appointment. No illegality or any patent irregularity in the constitution of the Selection Committee or the illegality of procedure vitiating the selection has been pointed out by the learned counsel for the petitioner. In my opinion, there is no illegality or material irregularity in the selection and appointment of private respondent No.3. It is not the function of this Court to sit in appeal over the decision of the Selection Committee or the appointing authority. In view of this and the settled legal position as brought out above, no case is made out for interfering with the discretion and judgment exercised by the Selection Committee, the consequent selection and appointment of respondent No.3.

13. In view of my discussion above and the reasons contained therein, the present writ petition is dismissed on merits, apart from having

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been rendered virtually infructuous, as already observed in the opening paragraph of the judgment.

April 09, 2019
vandana/smruti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No