

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No. 551 of 2019 (O&M)

Date of Decision: 11.04.2019

Baljeet Singh

.....Appellant

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Ajay Shekhawat, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 18.01.2019 passed by the learned Single Judge dismissing the petition filed by the appellant-petitioner seeking a writ of certiorari to quash the selection list for appointment on the post of Multi-Tasking Staff (MTS). A further writ of mandamus has also been prayed for to command the respondents to select and appoint the appellant-petitioner on the said post.

2. Basically the selection to the post of MTS held in pursuance to an advertisement dated 03.05.2016 issued by respondent No.2-Central University of Haryana was challenged mainly on two grounds:-

- i) That there ought not to have been an interview for the said post keeping in view the memos dated 09.10.2015 and 29.12.2015 providing for discontinuation of interview for various junior level posts in the Government of India.
- ii) Instructions dated 16.12.2016 in respect of written test provided that the candidate who fails to appear in Paper-I shall not be allowed to appear in Paper-II/Skill test. Hence the selection of

respondent No.3 on the basis of merit list of paper-II is abundantly illegal and against the provisions.

3. Learned Single Judge vide order impugned in this appeal dismissed the writ petition on the finding that that the first test was only qualifying in nature as prescribed by the Rules, wherein the name of the appellant-petitioner reflected at Sr. No. 51 and the final selection has been made on the basis of the performance in paper-II wherein the name of respondent No.3 was placed at Sr. No.1 and that of the appellant-petitioner at Sr. No. 2.

4. In order to appreciate the controversy it may be relevant to notice the following facts:-

Vide advertisement dated 03.05.2016, the applications were invited for filling up various posts including that of MTS in accordance with the Central University of Haryana Cadre Recruitment (Non-Teaching Employees) Rules, 2016. Rule 8 (ii) (e) of the said Rules makes a provision for holding of written/skill test. The said Rule reads as under:-

“Rule 8(II) (e) Holding of Written/skill tests:-

While filling up the posts under direct recruitment, the University shall hold the written/skill tests for all Group “B” and “C” Non-Teaching posts. As regards, Group A posts, the University may held the written test depending upon the number of applications received in response to the advertisement. The written tests may comprise of the Reasoning Ability, Simple proficiency in English and Hindi, noting and drafting, or skill tests or any other type of tests depending upon the exigency of service and/or the job requirements to be decided by the University.

The University may conduct written test in two stages;

(i) A qualifying test consisting of Objective type questions carrying 100 marks, and

ii) Descriptive test carrying 100 marks. The minimum qualifying marks in both the tests shall be 40% (35% for SC/ST/PWD for reserved posts). The answer scripts of the candidates of descriptive test shall be evaluated only in respect of those candidates who pass paper-I (Qualifying test). The merit of the candidates shall be drawn based on the performance of the candidates in Paper-II (Descriptive test/skill test) and in the interview, wherever applicable.”

5. In accordance with the aforesaid Rule, the answering respondent university conducted two tests; first being a qualifying test in which 172 candidates appeared and the name of the appellant-petitioner was reflected at Sr. No. 51 whereas the name of the selected candidate figured at Sr. No.58. After evaluating the performance of the candidates in the first test, which was qualifying in nature as prescribed by the Rules, the answering respondent proceeded to examine the performance of the applicants in paper Part-II which was descriptive in nature and the merit was to be adjudicated on the basis of the performance in this second paper held subsequently. The result of paper Part-II was declared on 23.03.2017. The name of the appellant-petitioner was figured at Sr. No.2 and that of the respondent No.3 at Sr. No.1. Since there was only one unreserved post of MTS, the same was offered to respondent No.3, who was placed at Sr. No.1 in the merit list.

6. From a perusal of the pleadings it is clear that at no stage of the selection process any interview was held and thus it is not open to the appellant-petitioner to challenge the selection process on the ground that the interviews were done away with.

7. Insofar as the second ground of challenge is concerned, a perusal of the facts and the Rule quoted hereinabove clearly goes to show that the first paper was a qualifying test for which according to the Rules the

minimum qualifying marks for the general candidates were 40% and 35% for reserved category and the answer scripts of the candidates appearing in descriptive test was to be evaluated only in respect of those candidates who cleared the qualifying test.

8. The appellant-petitioner and respondent No.3 both cleared the qualifying test and on evaluation of their performance in the paper Part-II which was descriptive in nature, undisputedly respondent No.3 was placed at Sr. No.1 in the merit list whereas the appellant-petitioner was placed at Sr. No.2 and thus the appointment was rightly offered to respondent No.3.

9. It appears that the challenge to the selection has been made by the appellant-petitioner on a mistaken belief that paper-I was the written test and paper-II was the skill test whereas as a matter of fact the former was qualifying in nature and the latter was descriptive in nature and in accordance with the provisions of the Rules the rank of a candidate obtained in the result of paper-I could not have been made the basis of final selection on-merits as the same was based on the performance in paper-II.

10. In view of the above facts and discussion we do not find any infirmity in the view taken by the learned Single Judge which requires any interference. The appeal is devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

11.04.2019
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√