

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24323-2013 (O&M)

Date of Decision:-13.02.2019.

Dr. Anu Sharma

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manoj Kumar Sood, Advocate for the petitioner.

Mr. Parminder Singh Kanwar, Senior Panel Counsel
for respondent No.1-Union of India.

Mr. A.S. Virk, Advocate for respondent Nos.2 to 4.

Mr. Sandeep Jain, Advocate and
Mr. Sachin Jain, Advocate for respondent Nos.5 and 6.

ARUN MONGA, J. (Oral)

1.) The present petition has been filed *inter alia* for issuance of a writ in the nature of *certiorari* to quash the recommendation dated 31.07.2013 (Annexure P-6) made by the Selection Committee of respondent No.2-National Institute of Technology, Kurukshetra for recruitment of Assistant Professors in Physics.

2.) Succinctly, the case of the petitioner, is that as per Advertisement No.5/2013 (Annexure P-1), the essential qualifications prescribed for the selection in question were Ph.D. with one paper accepted for publication in Science Citation Index (SCI) with a desirability of

additional 2 SCI Journal papers. The maximum age prescribed was 35 years. It is not disputed that the petitioner or the private respondents did not qualify either on the ground of Ph.D or on the publication of the papers or on the ground of ineligibility of age.

3.) A total of 228 applications were received by the Institute. After Screening Committee found 129 candidates to be eligible, an eligibility list (Annexure P-3) was prepared, wherein, the petitioner was placed at Serial No.91. After the eligibility list was prepared, the Screening Committee shortlisted 24 persons on the basis of criteria formulated by ACoFAR Committee. The said criteria was adopted for the purpose of shortlisting the candidates by the ACoFAR Committee in its meeting held on 15.06.2013. Based thereon, the shortlisted 24 candidates were called for interview. It is the selection pursuant to the interview conducted, which has been challenged by the petitioner.

4.) I have gone through the respective pleadings filed by the parties and also heard the rival contentions of the learned counsel for the respective parties, I am of the opinion that the selection carried out by respondent No.2-NIT, Kurukshetra does not call for any interference by this Court, and the petition is devoid of merits for the reasons stated hereafter.

5.) Learned counsel for the petitioner has strongly argued that the eligibility list (Annexure P-3) is in fact the merit list and the seriatim contained therein was decided as per the merits of the candidates. Per contra learned counsel for respondent Nos.2 to 4 states that the very headnote of the list (Annexure P-3) states that it is an eligibility list and, therefore, the argument of the learned for the petitioner that it is a merit list

learned counsel for respondent Nos.2 to 4 have taken me through the credentials of the persons found eligible as per the names contained in Annexure P-3. On a perusal thereof, I am of the opinion that the same does not reflect the merits in the serial number and the credentials of some of the persons who are way below in the serial number, seem to be much better than the ones above them in the said list.

6.) Learned counsel for the petitioner argues that out of the eligible candidates, the Screening Committee shortlisted 24 persons, based on a criteria which was formulated after the advertisement was published and after the eligibility was determined, so as to suit the tailor made requirements of certain candidates and the respondents were pre-determined for their selection and, thus, entire selection is vitiated. Per contra learned counsel for the respondent Nos.2 to 4 has successfully convinced me that the criteria was not formulated after the shortlisting by the Selection Committee. The said criteria was, in fact, formulated in consonance with the rules framed by the Ministry of Human Resource Development (Annexure R-2/3) and the ACoFAR Committee had, thus, simply followed the said criteria and the Screening Committee had adopted the same and, accordingly, invited the candidates for interview. I, therefore, do not find any force in the argument of the learned counsel for the petitioner that the criteria for shortlisting was formulated after the eligibility list was determined. It is only the adoption of the pre-formulated criteria which was done after determination of the eligibility and rightly so, as the stage of shortlisting would have arisen only after the determination of eligibility.

7.) Learned counsel for the petitioner further argues that the criteria is in violation of the rules as the same do not provide that the

candidates having Ph.D or post Ph.D experience would be given preference. The said argument is also devoid of any merit as admittedly in the academics, qualifications of a candidate play a much larger role for determining his merit being a selection for a position which is a combination of academics and research. Further the learned counsel for the petitioner argues that respondent No.7 was the son-in-law of respondent No.4 i.e. Director of the Institute and the ACoFAR Committee was headed by the Director himself and so also the Selection Committee, which shortlisted the candidates. I do not find any merit in the said argument of the learned counsel for the petitioner. At the relevant time, as pointed out by the learned counsel for respondent Nos.2 to 4, respondent No.7 was unmarried and the said position is not controverted. It is later that respondent No.7 married the daughter of respondent No.4. Even otherwise, a bare look at the credentials of respondent No.7 would reveal that the same far outweigh the credentials of the petitioner. The rules as well as criteria prescribed that preference will be given to the Ph.D candidates who have done their research from Foreign Universities and furthermore, it has been prescribed that in order to avoid in-breeding. The relevant clause 15 is extracted hereinbelow:-

15. Policy on avoiding in-breeding:-

Most leading universities of the world, including the best institutes of India have an explicit or implicit policy of not inducting their own students into the faculty. To avoid such in-breeding, the NITs will follow the following policies:

a) Candidates who have obtained or are expected to obtain their most recent degree (Ph.D. Or M.Tech.) from the Institute will normally not be

considered for recruitment, except where there is a 3 years' gap (approximately) between leaving the Institute and the expected date of joining.

b) This is not applicable to candidates who are already members of the faculty, either regular or on contract, and are pursuing a higher degree in the Institute.

c) In special cases, where the department (at the time of short-listing) or the Selection Committee feels that an exception needs to be made (for reasons such as severe shortage of faculty in a given academic field or exceptionally brilliant candidate or any other), the reasons for such exceptions are to be recorded in writing and put up to the Board of Governors for approval. The Board, if convinced, may confirm the selection. Such appointments will not serve as precedence.”

Learned counsel for respondent Nos.2 to 4 submits that the same criteria was adopted for the selection pursuant to the Advertisement (Annexure P-1).

8.) Further argument has been advanced by the learned counsel for the petitioner that respondent No.7 was not found eligible at the time of calling for interview and he had Second Class in his M.Sc. Degree though it is a conceded case that he did his M.Sc. from 'A' Grade University i.e. Singapore University and Masters from IIT, Kharagpur with 9.27 CGPA as reflected from eligibility list (Annexure P-3). Learned counsel for respondent Nos.2 to 4 states that 9.27 CGPA is equivalent to around 90 %. This conceded position negates the argument that respondent No.7 was not eligible for interview.

9.) Lastly, the learned counsel for the petitioner contends that one

of the interviewers who was an Expert Nominee, is Ph.D (Chemistry) and he

has no expertise in the subject of Physics. Thus, on that ground he is non-suited to judge the candidates for the post of Assistant Professor in Physics. The said argument also lacks any substance as the rules of the Selection itself envisage that the interviewers should be with diverse background. Learned counsel for respondent Nos.2 to 4 states that there were all other interviewers in the Board who had Physics as their expertise.

10.) In view of the above observations, the present writ petition is dismissed with no order as to cost.

(ARUN MONGA)
JUDGE

February 13, 2019.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.