

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17541 of 2017(O&M)
Date of Decision:16.10.2019

Reema Gupta

... Petitioner

Versus

Punjab and Haryana High Court & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. D.S. Rawat, Advocate,
for the petitioner.

Mr. Ajaivir Singh, Advocate,
for respondents No.1 and 2.

Mr. Puneet Gupta, Advocate, and
Mr. Saurabh Arora, Advocate,
for respondent No.3.

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner challenges the selection made by the Hon'ble Judges Recruitment & Promotion Committee, who selected the 3rd respondent for appointment on the post of Superintendent of the Sessions Division, Chandigarh. Even assuming that ACRs of both the petitioner and respondent No.3 were on par i.e. both of them have five 'outstanding' each, even then respondent No.3 will still march over the petitioner because he possesses the LLB degree and Rule 7 of the Chandigarh Union Territory, Subordinate Courts Establishment (Recruitment and General Conditions of Service) Rules, 1997, gives preference to law graduates in the matter of appointment to the solitary post of Superintendent.

2. I would not accept the argument of the petitioner regarding

non-communication of the ACRs for the years 2011 to 2015 because those ACRs were either 'very good' or 'good' and the prevailing instructions dated 28.08.2005 (Annex R-2/5) applicable did not require communication of good ACRs notwithstanding the decision of the Supreme Court in Dev Dutt Vs. Union of India, 2008 (3) SCT, 429 and other judgments cited by the petitioner i.e. Abhijit Ghosh Dastidar Vs. Union of India and ors., (2009) 16 SCC 146, Prabhu Dayal Khandelwal Vs. Chairman, UPSC & ors., 2016 (1) RSJ 688, Anil Kumar Vs. Union of India & ors., 2019(1) SCT 644 and Sukhdev Singh Vs. Union of India & ors., (2013) 9 SCC 566. There is no cavil after *Dev Dutt* that ACRs are to be communicated when the competition is on merit for selection posts. However, these judgments are to be read in the context and applied to each and every criteria presented in a case. The rule gives preference to the LL.B qualified candidates.

3. Besides, the criteria adopted was based on Rule 7 and was to the knowledge of the petitioner and her name was considered on those parameters. It was also to her knowledge in her application dated 10.09.2012 (Annex R-3/3 at pg.126 of the paper-book) praying that she should be considered for the post of Superintendent in the year 2012 as her service record till then has remained good. This would account for the ACRs for the year 2011 which was the first of the 5 considered in the present selection as per the criteria adopted. There has been no dispute before me that the post of Superintendent is a selection post and juniors can supersede seniors on the basis of evaluation of record of confidential rolls of ACRs and the service book. The service record of both the petitioner and the 3rd respondent is not open to doubt that they are a cut

above the ordinary. But the 3rd respondent had an edge over his senior in the feeder cadres, to the petitioner on the basis of ACR evaluation and the professional law degree which the petitioner does not possess.

4. No error was committed by the Hon'ble Committee of Judges in the evaluation process. The challenge to the selection deserves to fail. Writ of certiorari is denied.

5. For these reasons, I would not interfere in the writ petition at the hands of unsuccessful party and dismiss the same.

(RAJIV NARAIN RAINA)
JUDGE

16.10.2019
monika

Whether speaking/reasoned	Yes
Whether reportable	Yes/No