

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.4259 of 2016

Date of Decision:-19.09.2019

Miss Priya Bhardwaj.

.....Petitioner.

Versus

Central Administrative Tribunal, Chandigarh Bench & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

Present:- Mr. Raj Kumar, Advocate for the Petitioner.

Mr. Tarun Kumar, Advocate for
Mr. Nitin Kaushal, Advocate for respondent nos.2 to 5.

JASWANT SINGH, J.

Petitioner-Priya Bhardwaj has filed the instant writ petition challenging the order dated 06.11.2015 (P-13) passed by respondent no.1- Central Administrative Tribunal, Chandigarh whereby her claim to the post of Law Officer (General Category) in Law and Prosecution Department of U.T., Chandigarh has been declined.

Learned Counsel for the petitioner has vehemently argued that respondents no.6 & 7, who belong to the reserved categories had secured very less marks in the recruitment process and therefore they are not entitled to be selected under their respective categories. By relying upon the recruitment conditions of Delhi Judicial Services Examination held in the year 2014, it is submitted that a concession of not more than 5% marks can

be given to the reserved category candidates from the marks secured by a General Category candidate. It is further argued that the selection process for the posts in question has been changed mid-way, as it was mentioned in the advertisement (P-1) that either a written examination or interview would be conducted for selecting the candidates. However, in the instant case, after conducting the written examination, interview has been conducted and, therefore, the entire selection process stands vitiated.

On the other hand, learned Counsel representing the UT., Administration has argued that it is the prerogative of the recruiting agency to lay down the terms and conditions in the advertisement. Since no such terms was mentioned which would require a candidate to secure minimum number of marks in order to be eligible for the posts in question, therefore, the argument of petitioner that un-deserving candidates have been selected, has no legs to stand. It is further argued that the petitioner cannot challenge the selection process after having participated in it and, therefore, she is estopped by her own act and conduct.

We have heard learned Counsel for the parties at length and have perused the record carefully with their assistance. However, we are of the view that instant petition is without any merit and, therefore, same is liable to be dismissed.

It is an admitted position that the advertisement in question was issued by respondent-department on 07.07.2013 and selection process to the posts in question was concluded in January, 2014. Concededly, there is no clause in the advertisement which lays down a particular number of marks required to be secured by a candidate in the recruitment process for being considered eligible. It is also not in dispute that written examination of 100

marks was conducted by respondent-department and petitioner along with other meritorious candidates i.e. three times the number of candidates of the posts advertised were called for interview from the successful candidates of written examination. It is further not in dispute that after awarding marks in interview, top candidates were selected by adding the marks of written examination and interview with the following break up:

Total Marks :- 120

Written Examination :- 100

Interview :- 20

Now on consideration of the aforesaid factual position, it is seen that the first argument raised by learned Counsel for the petitioner that un-deserving candidates have been selected in the reserved category posts, is devoid of any merit. As observed earlier, when there is no clause in the advertisement which lays down any minimum marks required to be secured, the respondent-department was well within its jurisdiction to select the candidates as per the merit list. Not only this, petitioner cannot be permitted to claim any prejudice being caused to her, as she had applied under the General Category and therefore she has a *locus* to challenge the selection of candidates selected under other categories.

As far as the second argument regarding changing the selection criteria mid-way is concerned, we are of the view that this argument is not available with petitioner after having participated in the recruitment process. In case petitioner was aggrieved against the change of recruitment process, then she could have very well approached the Tribunal before participating in the interview. However, she chose to participate in the same without any demur. It is not the case of petitioner that she had atleast lodged a protest

with the respondent-department for changing the selection process mid-way. Once that is so, we are of the opinion that the petitioner is barred to challenge the selection process, being estopped by her own act and conduct.

Furthermore, there is no allegation of malafides against the selection or interview committee, as none of the committee members have been made party. This fact becomes more relevant as no allegation has been levelled by the petitioner that in order to favour a particular candidate, selection process was tweaked. Not only this, none of the selected candidates of the General Category have been impleaded as a party, either before this Court or before the Tribunal. Finally the selection is of the year 2013 for the post of Law Officers which was “purely on temporary basis”.

In view of the above, we find no merit in the instant writ petition and, therefore, same is hereby ordered to be dismissed.

(JASWANT SINGH)
JUDGE

(LALIT BATRA)
JUDGE

September 19, 2019
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No