

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 9438 of 2013(O&M)
Date of Decision: 27.11.2019

Dr. Narinder Singh

... Petitioner

versus

Vice Chancellor, Punjabi University Patiala & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Manish Singla, Advocate
for the petitioner.

Mr. Sanjeev Roy, Advocate
for respondents No.1 and 2.

Mr. Aakash Singla, Advocate
for respondent No.6.

None for respondent No.5.

ARUN MONGA, J.(ORAL)

1. Petitioner herein seeks issuance of a writ of *certiorari* for quashing appointment of respondents No.5 and 6 as Assistant Professors in Psychology made on the basis of interview held on 13.08.2012 pursuant to advertisement dated 30.09.2011(Annexure P-1) and for a direction to appoint the petitioner as such.

2. It is claimed that petitioner and private respondents No.5 and 6 had participated in the selection process. But respondents No.5 and 6 were given selection at TPD Malwa College and Guru Kashi College, Damdama Sahib respectively, ignoring the petitioner, who is more meritorious to both

of them. It is stated that respondents had assigned two different scores to the candidates and it was done by the same panel on the same date and time on the basis of single interview. Each one of respondents No.5 and 6 was considered higher for one and lower for the other in overall merit than the petitioner at the same time in two different colleges. The names of respondents No.5 and 6 were recommended for appointment, whereas the name of the petitioner was placed in the waiting list of TPD Malwa College. The break up of marks awarded was demonstrated in the information (Annexure P-4) stated to be received by the petitioner under Right to Information Act.

3. In the reply filed on behalf of Punjabi University Patiala, it is stated that the selection to the post of Assistant Professor was carried out in accordance with University Grants Commission guidelines, as adopted by the University on 30.06.2010. It is averred that the Selection Committee took separate interviews for the posts of Assistant Professor in Psychology of TPD Malwa College and Guru Kashi College. Though constitution of the Selection Committee was same, but Principals of the colleges were different and hence there was variation in the marks awarded to the candidates. The petitioner unsuccessfully participated in the selection process and now he cannot turn around to say that selection process was vitiated.

4. In the reply filed by respondent No.6, it has been averred that the Selection Committee never took combined interview and the candidates were assessed separately for both the colleges and no cause of action survives for the petitioner, who unsuccessfully participated in the process.

5. No reply was filed on behalf of respondent No.5. Even there is no representation on her behalf today.

6. I have heard learned counsel for the petitioner as also learned counsel for respondent University as well as learned counsel for respondent No.6 and have gone through the paper-book along with the record appended thereto.

7. A perusal of merit list of the petitioner vis-a-vis private respondents contained at Annexure P-4 reflects that marks have been awarded to private respondents with a pre-conceived mind set to accommodate both the candidates in such a way that one can be selected at Guru Kashi College and other one at TPD Malwa College. Respondent No.6 was awarded 9.40+14.86+5 marks in academic record and research with the total of 29.26 marks and 21 marks for assessment of domain knowledge and teaching and 15 marks for interview, taking the total marks to 65.26 in respect of Guru Kashi College. On the other hand, respondent No.5 Maganpreet Kaur was awarded 10.90+12.55+5 marks for academic record and research, 18 marks qua assessment of domain knowledge and teaching and 13 marks in interview, with an aggregate total of 59.45 marks in respect of Guru Kashi College.

8. The same Selection Committee interviewed the petitioner and private respondents at the same time on 13.08.2012 at 12:15 p.m. in other college i.e. TPD Malwa College. Other than one interviewer i.e. Principal of the College, all the other interviewers remained the same and awarded different marks in assessment domain and interview performance while the marks awarded qua academic record and research remained the same. Intriguingly, the marks awarded to respondent No.5 in assessment domain were changed to 21 from 18 and in interview performance to 15 from 13 and those of respondent No.6 were changed from 18 to 22 in assessment

domain and from 13 to 15 in interview performance. Resultantly, respondent No.5 got 60.26 marks in respect of TPD Malwa College lowering his merit to be considered for said college and by necessary corollary, respondent No.6 jumped from 59.45 marks to 65.45 marks qua the said TPD Malwa College raising his merit and was accordingly appointed in the said college. While, on the other hand, respondent No.5 having obtained higher marks qua Guru Kashi College i.e. 65.26 was appointed in the said college. The petitioner, on the other hand, had higher marks in academic record and research i.e. 39.93 as against 29.26 and 28.45 awarded to respondents No.5 and 6 respectively. It is clear that the Selection Committee had given leverage to both the private respondents while awarding marks for assessment of domain knowledge and interview performance, given that the interview was conducted on the same date and time, only to adjust private respondents so that they would emerge more meritorious than petitioner qua the colleges for which they have been selected.

9. In view of the glaring discrepancy noted above, the selection process, which is under challenge in the present writ petition is clearly hit by vice of favoritism and not based on the actual merit of the candidates.

10. Keeping in view that private respondents No.5 and 6 have been in service for past more than 8 years from the time their impugned selection has been under challenge before this Court, the equity to that extent is in their favour in as much as they ought not to be turned out of job until fresh selection process culminates into any finality. Even the public interest favours such an arrangement to continue since students in the colleges would suffer for no fault of theirs, by sudden vacancy likely to result

pursuant to any such adverse orders of putting them out of job with immediate effect. Also this Court is of the opinion that selection is though liable to be conducted afresh, but in order to balance the equities and also to maintain a level playing field amongst the probable future successful candidates, the competition is restricted to the only those candidates who originally applied pursuant to advertisement dated 30.09.2011(Annexure P-1) and were held eligible to be considered as per terms and conditions contained therein.

10. In the premise, writ petition is allowed and the selection and appointment of respondents No.5 and 6 pursuant to advertisement dated 30.09.2011(Annexure P-1) is set aside. The respondents are directed to carry out fresh selection process qua the posts advertised vide Annexure P-1, in accordance with law by re-inviting and considering all those eligible candidates who had applied pursuant to advertisement dated 30.09.2011 (Annexure P-1) as already noted above. It is made clear that until the fresh final selection is made, respondents No.5 and 6 shall be allowed to continue. It is further made clear that if in the interregnum any of the candidates who have become overage during pendency of the writ petition, they shall be entitled to age relaxation since the competition is amongst those who had applied originally.

11. Allowed in above terms.

(ARUN MONGA)
JUDGE

November 27, 2019

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1. Whether speaking/ reasoned:
2. Whether reportable:

Yes/ No
Yes/ No