

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.24495 of 2019 (O&M)

Date of Decision.18.10.2019

Dr. Sunder Singh and another

...Petitioners

Vs

State of Haryana and another

...Respondents

Present: Mr. Jagjeet Singh, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Prayer in the writ petition is for quashing of Advertisement No.2 dated 09.05.2017 (Annexure P-1) followed by corrigendum dated 19.06.2018 (Annexure P-2) issued by respondent No.2 being violative of Article 14 and 16 of the Constitution of India and against the law settled by Hon'ble Supreme Court in *K. Manjusree Vs. State of A.P. AIR 2008 SC 1470* and *Hemani Malhotra Vs. High Court of Delhi AIR 2008 SC 2103*.

Facts that led to filing of instant writ petition are that respondent No.2 i.e. Haryana Public Service Commission caused an advertisement No.2/2017 dated 09.05.2017 (Annexure P-1) inviting application for recruitment of 180 Assistant District Attorneys, subsequently increased from 180 to 190 vide corrigendum dated 19.06.2018 (Annexure P-2). Screening test was held on 19.08.2018 and final result was declared on 06.03.2019.

Learned counsel for petitioners submits that petitioners sought information under Right to Information Act regarding criteria adopted by respondent No.2 for selection to the posts of Assistant District Attorneys

but despite repeated applications, complete information was not provided. Respondent No.2 did not mention anywhere in the advertisement as to whether candidates have to secure minimum marks in the written examination/interview. Moreover, respondent No.2 arbitrarily changed the process of selection by reducing the marks of *viva voce* and academic qualifications and introduced a new qualification i.e. marks for obtaining medal in the Commonwealth, Asian Games or Olympic Games, thus, changing selection criteria without notifying the same to candidates at the time of inviting applications is violation of principles of natural justice.

In support of aforementioned contention, relied upon judgment of Delhi High Court rendered in **Vikas Singh and others Vs. Airport Authority of India Manu/DE/2996/2013** that adoption of an existing or new criteria at the end of process is not justified. Reliance also placed upon judgment of Hon'ble Supreme Court in **K. Manjusree Vs. State of Andhra Pradesh and another AIR 2008 SC 1470** wherein it has been held that selection criteria has to be adopted and declared at the time of commencement of the recruitment process. In **Ramesh Kumar Vs. High Court of Delhi and others MANU/SC/0079/2010** it has been held that in case statutory rules prescribed a particular mode of selection, it has to be given strict adherence and in case no procedure is prescribed by rules, competent authority while laying down norms for selection may prescribe for tests and specify minimum bench marks for written test as well as *viva voce* but the criteria cannot be changed in midst of selection process.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Jagjeet Singh. It would be apt to reproduce condition

No.2 of General Clarifications of Advertisement (Annexure P-1), which is as under:-

“2. The prescribed essential qualifications are minimum and mere possession of the same does not entitle the candidates to be called for interview. Where the number of applications received in response to the advertisement is large and it is not convenient or possible for the Commission to interview all the candidates, the Commission may restrict the number of candidates for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement or by holding a screening test or any method devised by the Commission.”

A perusal of aforementioned condition would reveal that it was specifically mentioned that in case it would not be convenient or possible for the Commission to interview all the candidates, the Commission may restrict the number of candidates for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement or by holding a screening test or any method devised by the Commission. Therefore, devising a selection criteria or setting a minimum benchmark in the eventuality of non-feasibility of holding interview of all the candidates is justified.

Petitioners were fully aware of the condition extracted above. In case, petitioners had any grievance qua non-disclosure of the criteria in the advertisement, they could have challenged the advertisement on the grounds if available but not after participation. This view of mine has been derived from ratio decidendi culled out by Division Bench of this Court in

Shashindra Singh (Km.) Vs. Union of India and others 2010 (3) RSJ 682.

As an upshot of my finding, I do not find any illegality and perversity in the selection process. No ground for interference is made out.

Writ petition is dismissed.

(AMIT RAWAL)
JUDGE

October 18, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No