

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA No.1782 of 2016 (O&M)
Decided on : 07.02.2019

Virender Singh

..... Appellant

Versus

State of Haryana & others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Paramjit Jakhar, Advocate
for the appellant.

Mr. Randhir Singh, Addl. AG, Haryana.

Mr. R.K.Malik, Sr. Advocate with
Mr. Sunil Hooda, Advocate
for respondent No.4.

Manjari Nehru Kaul, J.

In this intra Court appeal filed under Clause X of the Letters Patent, the appellant assails the order dated 08.07.2016 passed in CWP No.20881 of 2012 vide which the learned Single Judge dismissed the writ petition filed by the petitioner (appellant herein).

2. The facts in brief for adjudication of the present appeal are that the appellant in pursuance to advertisement No.1/2009 published by respondent No.2- Haryana Staff Selection Commission applied for the post of Cane Master in the Prison Department, Haryana. Thereafter, the appellant appeared along with respondent No.4 before the Committee constituted for the interview by the respondent-Department. On 26.07.2010,

respondent-Department declared the final result wherein Roll No.00007 (Bugal s/o Hoshiar Singh) was declared as selected for the said post and the name of the appellant appeared in the waiting list . However, the said selected candidate refused to join and tendered an affidavit dated 26.07.2010 wherein he stated that he was not interested in the said job and had no objection if the appointment was offered to the candidate, first in the waiting list. It was, thus, in this background appointment was offered to respondent No.4. Feeling aggrieved, the appellant approached this Court by filing CWP No.8753 of 2011. This Court vide order dated 18.05.2012 dismissed the petition as withdrawn with liberty to challenge the appointment and selection of respondent No.4. The appellant again approached this Court by way of CWP No.20881 of 2012 challenging the appointment and selection of respondent No.4.

3. Learned Single Judge vide order dated 08.07.2016 dismissed the petition by holding that respondent No.4 was more experienced and meritorious than the appellant according to the information (Annexure P-2) supplied by Public Information Officer. Hence, the present appeal has been filed.

4. Learned counsel for the appellant, however, contended that the learned Single Judge erred in not appreciating that the academic qualifications of the appellant were higher than respondent No.4 and he was, thus, more meritorious than him. Despite this, the respondent-department awarded less academic marks to him. Another averment made by the learned counsel for the appellant was that the respondent-Department

wrongly awarded 07 marks for experience to the private respondent, who had neither appended his experience certificate with the application form nor produced the same at the time of interview. Learned counsel for the appellant placed reliance upon the judgment of ***Dr. Parikshit Bansal & another vs. Union of India and others, 2013(1) SCT 468*** and prayed for allowing the instant appeal.

5. We have given thoughtful consideration to the arguments advanced by learned counsel for the parties and perused the material available on record with their assistance.

6. Learned Single Judge vide order dated 08.07.2016 has rightly concluded that the appellant's assertion that he is more meritorious than respondent No.4 is unacceptable on the facts of this case and the same is a figment of his imagination based on self style assertion.

7. A perusal of Annexure P-2, which is the information sought by the appellant under Right to Information Act-2005, reveals that Roll No.00004 (appellant) had obtained 18 marks (academic qualification = 10 marks + viva voce = 8 marks) as against Roll No.00006 (respondent No.4) who had obtained 19 marks (academic qualification = 17 marks + viva voce= 2 marks) out of 30 marks for the post of Cane Master against Advt. No.1/2009, Category No.22.

8. Further, a perusal of Annexure P-13 i.e. the application form of respondent No.4 reflects that in the column of experience it has been clearly mentioned by him that he had 7 years of experience. Not only this, Annexure R-4/1 is the Experience Certificate dated 17.06.2006 , which

fortifies the claim of private respondent to be more experienced than the appellant. Hence, we do not find any error in the marks awarded under the head of “Experience” in the criteria, which was adopted by the Prison Department, Haryana while selecting respondent No.4 to the post of Cane Master.

9. Further, a perusal of the original record produced by the Haryana Staff Selection Commission reveals that the appellant's name stood at Sr. No.2 in the waiting list since he had secured 18 marks as against respondent No.4, who stood at Sr. No.1 in the waiting list as he had obtained 19 marks. It would be pertinent to point out that since the appellant stood at Sr. No.2 in the waiting list he still could not have been appointed as Cane Master on the refusal of Roll No.00007 as respondent No.4 with 19 marks was higher up in the waiting list.

10. ***Dr. Parikshit Bansal's case(supra)*** cited by learned counsel for the appellant does not help the cause of the appellant. In the said case, the marks for experience were not supported by any documents and the selected candidates had been given marks for experience only on the basis of their self styled statement whereas in the case in hand, there is documentary evidence to establish that respondent No.4 had 7 years of relevant experience for which he was rightly given marks/weightage.

11. Keeping in view the above discussion, we do not find any ground to interfere in the order passed by learned Single Judge and affirm the same.

12. Accordingly, the present appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

07.02.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No